

**Town of Framingham Planning Board Meeting
April 13, 2004**

In attendance are Tom Mahoney, Chairman, Ann Welles, Vice Chairman, Carol Spack, Clerk, Sue Bernstein and Andrea Evans-Carr. Also present is Jay Grande, Planning Administrator and Carol Pontremoli, Administrative Assistant.

Meeting was called to order at 7:30 pm

Ann opened the meeting in

Andrea nominated Tom

Carol Seconded

Sue nominated Ann

Tom Seconded

Ann asked for discussion on the nominations

Sue suggested that Tom had was very good but his job out of town which was very

Carol spoke on behalf of Tom's nomination

Ann felt honored but declined the nomination

Tom noted Ann's declination and

With the withdrawal

Voted for Tom

5 approved and 0 opposed

Nomination for Ann as Vice Chair

Seconded

5 approved and 0 opposed

Carol nominated Carol Spack for Clerk

Seconded

Voted 5 approve and 0 opposed

Tom Mahoney, Chariman welcomed the two new board members. He noted the loss of Helen and Larry and their years of experience.

He also noted Sue's experience.

He welcomes the opportunity to work with the board and to continue to do so.

Jay noted two administrative items:

Administrative Items

ANR Plans

220 Edmands Road

Barbara Grey is the applicant

Sue Bernstein asked the Board for her recusal.
She noted Barbara has her property for sale and it may come before that someone in her office may be working on this sale.

This is an ANR plan and with less than required lot width and also may not comply with the wetland requirement.

The Town Engineer asked for the Board not to sign off on this as the width does not comply with the by-laws.

Jay read from the ANR by-laws. Carol asked to add 3b of the Sub-division. Under By-law section 3 and 4.

Ann noted in the ANR by-law and read if one or more lots has a deficiency – the only – she continued to read from the by-law a paragraph regarding a statement noting on the plans. Ann would like to note if the property is sold and the owner goes to the Zoning Board of Appeals – they could
Ann wants to go on the record that ANR's are very difficult

Tom asked if anyone would like to make a motion.

Tom made a motion that the PB endorse the plan for the division of land at 220 Edmands Road depicted on the plans. Carol would like to second this motion for discussion. She supports what Ann has said and also section three of the Rules and Regulations and section four. She is concerned with the underlying motion. She would like to add more

Barbara has not objection to that. They are negotiation and if the Board would like to add a note. Ann asked Barbara if there was a reason why she divided the property into two nonconforming lots. She feels the more she speaks the more she will lose and she would like to be quiet.

Tom asked Chris Petrini if he would make any comments. He felt that any qualifying notes that the Board would like to add to the Plan would be appropriate. Carol Spack noted there is language stating there could be an endorsement with respect to the frontage. Ann asked if they could add language to lots 4 and 4A stating that they do not comply with zoning
Tom asked Carol to Lots 4a and 4 b?????????????????/ be provided
Tom would accept the new term as a friendly amendment. Ann asked if the lots were conforming could they come back

Tom asked for a vote as

Voted 3 approve 1 oppose (Carol Spack) and 1 abstain (Sue Bernstein).

Occupancy permit for 88 Blandin Avenue

Jay went out to the site and noted there is some items that still need to be finished. Paving and landscaping and also

They are looking for an extension to complete the work. They sent an e-mail to DPW asking if the sidewalk can be done. Jay would recommend the occupancy be signed and upon verification of the bond and he would like to suggest a 60 day occupancy.

They noted some bushes have died and they will replace the tree that did not make it. The sidewalk is a DPW issues and they noted there is some unknown piping under the group.

Carol asked if this was the site where the cable went across the street. Ann noticed a portion of the chain link fence was damaged. She also noted she knows the neighbors did the damage and asked if they would be responsible.

Frank DeMarco, resident of Framingham

He would like to show some pictures where it shows his sign is on the sidewalk and his fence is on the property line and has mulch on Town property.

Mr. DeMarco feels the sidewalk is an issue and notes it has become a dump. Jay would like explain to the Board on behalf of Mr. DeMarco has notified the Building Inspector and these issues have been passed on but also feels that some of the issues deserve attention. The applicant notes there has been no encroachment. Jay would like to have someone on the Planning board be assigned to see the site. Ann would like to expend the temporary permit for 90 days to allow for the applicants to finish the outstanding items.

The applicants have gone to Mr. DeMarco and told him they would be cleaning this item and would bring in a bob cat to clean it. The applicant has agreed to clean the lot within thirty days.

Mr. DeMarco asked about putting the gate back. He noted the gate is on the street and is impeding the traffic.

Tom explained that Carol Spack would be assigned to view the property and would like to extend the temporary permit for the applicants to

Carol made a motion to approve for a 90 day temporary occupancy permit from today.

Sue Seconded

Voted 5 approve and 0 oppose

Tom Mahoney made a note to the audience that Article 37 has been removed and anyone in the audience should be aware of that.

Continued Public Hearing, Modification or Rescission of Definitive Subdivision Approval, Doeskin II, 70 Carter Drive

In attendance is Peter Barbieri and Chris Kotsiopolous also Planning Board Consultants Peter Baril and Matt Shuman, GZA

This is for the review of the drainage. They are here for comments from the consultants and wanted to look through the process. The plan the engineer put together shows lot 10A. The granite curbing has been complete. In the last covenant lot 7 is not included. He referenced the homeowners association would be responsible for the maintenance of the lots.

Jay asked the board to look at doc 498-04, 514-04

Jay noted that GZA did a site reconnaissance and they wrote a report showing the property has held up in a final document dated April 6, 2004.

Peter Baril asked for Matt Shuman to give an update. They have been at the site three times and at the end of March, Matt went to the site. There have been several meetings and noted the head wall went downstream. Matt noted that after the discussions the improvements should comply with the 100 year storm.

Ann asked about the head wall. Matt explained an increase to a 15 inch pipe to accommodate the 100 year storm.

Ann asked Peter if this has been a surprise for anyone. Peter has agreed to and hopes the drainage line be started next week so it can be seeded and hopes within thirty to sixty days this to be done.

Carol asked the consultants if they have signed off on this project. Matt suggested they have signed off but that the Board keep track on this in the future.

Jay noted they have met with the Town Engineering internally and John Bertorelli is aware and is satisfied. There has been some questions regarding and Tom asked Mr. Harding to speak.

Gerald Harding, 45 Carter Drive.

He notes he has had questions and he is in general agreement with the changes. Tom Brackett the arborist is not here but Mr. Harding has an e-mail and has brought copies with him to be distributed to the Board. Mr. Harding notes several trees on the plans and notes there are some retired arborist that could be there for a small amount.

Sue asked about the area behind the Harding's property and the 40% slope.

Rob Gemma made notes on the plans and noted the Board should keep them in mind in the future. Sue wants to make sure that when the fencing, and footings that the swale would be affected. Mr. Harding noted the swale should have more plantings. Sue wants assurance that there would be maintenance and the new plantings would survive. Peter agrees that the more vegetation planted the less runoff. Sue asked GZA if they had any idea what volume of water would be retained and what would be runoff. Matt Shuman noted the system is designed that all roof areas would be infiltration.

Sue is asking how much volume would be retained on the site. Carol asked about the pipe sticking out on lot 6.

Chris noted that is a pipe that collects water and discharges on to Mr. Beers property.

Chris gave an explanation of what and how the pipe collects but also notes there is a separate water source that is also going on the Beer's property.

Jay noted he feels comfortable that the questions have been addressed. Jay would recommend that after tonight's meeting, if the Board feels comfortable the next step would be to bring back plans with a sign block. He also asked the applicant to show the walls.

James Hargrove, Lot 6 abutter to a wall asked to step to the table to see plans where the walls would be.

Jay asked Christopher Petrini to speak. Chris noted they have been working with the applicant and the covenant. He noted that the money retained be discussed. The applicant feels the money should be returned when the underground drainage be complete they should be able to ask for the release of the money.

Ann asked for the drainage issues to be completed before the board moves on to the money issue. She asked if the subsequent construction is constructed would there be issues of erosion. Matt Shuman noted that whenever there is movement of earth there is always a possibility for erosion. That is why there is a need for sediment control maintenance.

Chris Kotsiopolos wants to put this to closure. He wants to put the drainage pipe in at the bottom and then to seed and complete the area near Mr. Harding's lot. He would then next do the leaching gullies in. He has the cellar holes dug but would like to get a foundation permit only. Once this would be complete and the final grading would be complete.

Jay feels our schedule is very busy tonight and suggests another board member be assigned to follow the construction sequencing and then the details be completed. He felt he would like to move the process forward and allow the foundations to be put in as long as Chris has his plan in writing. Mr. Harding would also like to note the rock area that would need to be addressed and plantings would need to be completed.

Mr. Hargrove asked about the tree on his property and asked Chris about the four foot wall and a six foot wall, could they add some soil to build up the back of his wall. Chris was in agreement.

Tom asked Jay and Town Counsel – if the applicant has an agreement with the abutters there would be no stopping them. Ann notes if this hearing is continued she would like to see this continued quickly. She feels she does not want to agree to plans unless the plans are followed.

Tom brought up the letter from Mr. Brossi. Peter feels the pictures that were included in the letter were old and did not pertain to the lots. Carol wanted to ask Chris about lot 7A and feels they should be added to two documents.

Jay noted there are deed restrictions that would need to be sent to Jay so he could forward them to Town Counsel. Sue would like to go to the site and look at the lots before the next week.

Tom asked if there would be consensus of the board to meet on April 26th.

The board agreed.

This hearing is continued to Monday, April 26, 2004 at 7:45 pm.

Discussion for 270 Concord Street

Joe

He would like to build a small building and a proposed landscape plan. He is proposing a building the same size as existing building with the architect to design the building. He also has plans that show setbacks. He brought plans that show what the building would look like when finished. He would like to move his office. He wants to make changes that the Town would be proud of.

Ann asked if he has been to the Historical commission. He has filed for a demolition permit six months ago and it will be demolished on April 15.

Carol asked if he is aware of any variances that he would need. He noted yes and it would be the arching and the set-back.

Tom asked Jay what he would like to do next.

Jay wants more sets of plans that can be circulated to the departments for review and comments.

Ann feels the architecture of this building is dull and is very disappointed in it. Mr. ??????? would like to please the board and is willing to

Zoning Articles.

Article 37 has been withdrawn by the proponent.

Tom read into the record a letter of withdrawal from Gayle Forbes.

Tom then read the public hearing notice in the record.

Tom asked for a recommendation.

Carol made a motion to accept the withdrawal and have it go back to sponsor.

Seconded by Sue

Voted 5 approve and 0 opposed

Article 33

Non-Conforming Buildings, Structures, Uses and Lots.

Tom read the public hearing notice into the record.

David Norton, Chairman of the Zoning Board of Appeals.

David explained the Zoning Board has been working for two years on this in direct response to cases that have caused problems for the Zoning Board.

At the request of Town Counsel, he has also asked for this article. Susan Craighead, Associate of the ZBA notes the By-law does not address how to resolve the problems cases in great detail. David noted they are trying to establish some guidance and allows more definition. Susan Craighead suggested they could go through it or just address the comments. Tom would like to address the comments and then to open it to the public.

Having no questions from the Board, Tom asked for questions from the audience.

Betty Muto, Precinct 12

Last evening they postponed the article until the next P&Z meeting in May, 2004. She feels this article weakens the by-law. She notes item 6. How does this apply to zoning? She feels they are exerting findings into the by-laws. In a finding a board may make a finding and can change the use.

Tom asked if that was the only issue to the by-law. In some instance the two years to have a building demolished is too long a period of time.

David noted that non-conforming is addressed in item five not six. Sue noted that under section A item 6 the board can make a finding. She feels they have cut back and not more detrimental to the neighborhood. She feels the Building Commissioner has the final say.

Sue asked if the first sentence in item six is there someway to wordsmith it that notes the change from a use to a use.

Sue notes an example with a gas station to a dry cleaner. David noted he is against spot zoning. He is against it. Carol Spack notes she cannot agree with the wording. Donna Jacobs notes this by-law; chapter 40A allows for a finding and would like to make further restrictions to chapter 40A. Ann noted the wording. Carol suggested the wording less detrimental and ultimately the non-conforming uses be eliminated. Carol suggests a small free standing sentence.

Sue has a concern with this. She notes the gas station to a dry clearer with the underlying use being residential. Carol feels a policy statement be made and then the risk is diminished allowing a change of use which is detrimental. Sue notes the word alteration may be better served by removing it.

Betty Muto noted if we do not have it in our by-law, a finding could permit a new use. She feels Carol Spack is on the right track.

Tom asked if there is anyone in the audience that would like to speak.

Waldo (Archie) Lyon, Precinct 1

He notes he lives in Pheasant Hill and now feels they are all non-conforming. He would like to see an amendment to explain what is wrong with old law and explain

Sue Bernstein this is a good way of putting conditions on the by-law.

Carol suggested the word extension in 5C be remove.

Sue Craighead noted the handwritten changes on the revised first page. She feels Pheasant Hill is a perfect example. The word alteration does not cover the circumstances. David notes an alteration is used as a technical term.

Tom asked what the next step would be to vote to modify.

Norma Schumann would like to mirror the testimony with another speaker. She can't see how Town Meeting could see this. Getting information out in advance. She feels the presentation should be simplified and make it understandable.

David feels when he got on the ZBA there were a lot of strange things. He delved into this and noted this is the most difficult assignment he has done. He wants to legitimize the article.

Carol would like to make a motion to support with the change to paragraph 6 and other minor changes to support this.

Ann Seconded.

Marilyn Cohen, Precinct 8

She feels less is more and a picture would go a long way.

Voted 5 approve and 0 oppose

Tom asked the audience what article they would like to hear. Ed James asked to hear Article 32, Senior Residential

Tom record the hearing notice into the record

Article 32

Tom asked Donna to speak on this article on behalf of the Planning Board.

Donna noted the need for this housing option for people in the over 50 age group.

The baby boomer generation will be looking for a more care-free way of life. She would like to note this is based on a cluster sub-division.

One change would be to 1E to add historical and cultural uses.

PNZ voted for this in approval

Carol noted the age restrictions were tightened. Donna noted the Dimensional regulations, parking and common areas.

Donna suggested to go page by page

Ann found grammatical errors on page one.

Carol noted the words dwelling unit in 5a does not age, adults age.

Carol noted the Capital letter for the word Building should be changed to small letter b.

Carol noted in paragraph 5 regarding clubhouses and remove the word. Sue brought up the Exclusive Use Area. In the *clause may be reduce words.

Sue brought up in second paragraph in number 8 where Town Counsel suggested at a minimum all dwelling units may be or may be required.

Norma Schulman, Precinct 3

She noted there are a lot of people in Framingham that would like to have a facility like this. She would like to address issues up front and note this is legal prejudice. She suggested finding out how many people have left because of the lack of these facilities. In the age restriction draft she has a real concern with 4B regarding death and addressing a grace period. She used the example of the water bill where a qualifying owner died and the spouse's water bill was increased when she had less income.

Ann noted they gave this a lot of thought and put the power in the residents' hands with the condominium association. Carol wondered if that is more intrusive than they would like to be. Ann would like to note the pre-eminent form

of ownership and protect a person of a certain age. Tom notes it gives the owners a safeguard.

Ed James,

On the age restrictions, could a person buy it for their parent. He noted on top of page two paragraph C regarding waivers. On condition 15c regarding the density based on water and septic, he would like to have it tightened.

Sue would like it approved by Board of Health and DEP as necessary.

Marilyn Cohen, Precinct 8

She returned from living in a large over 55 community that has rules for everything. She notes that every forty-four units has a manager.

Tom wants to continue this article to next Tuesday, March 20, 2004 at 7:30 pm
Tom asked Donna to flag any items that she feels essential since she will be on vacation.

Ann would like to note and thank Donna Jacobs who has worked on these articles very diligently

Jay would like to note the budget meeting scheduled for Thursday. He notes the work load that has presented by the Zoning Board of Appeals. Carol Pontremoli feels that she is unable to give the Planning Board the amount of time that is needed due to the amount of the work load. An administrative assistant with some planning would be very effective and helpful.

Jay feels the Planning Board has not had any constructive assistance Jay noted when Karen Margolis was in the office she intercepted the questions regarding zoning. There is no concentrated time to get anything done. We had an intern that added to the confusion. Jay has read in the paper regarding reorganization and at this point he would like to address the immediate need of a staffing shortfall.

Jay is willing to stay the course but knows the history of this town and he will be very blunt about it.

Tom asked about the staffing and hiring of an additional person. Jay noted that Carol Pontremoli has two job descriptions although the expectation was to combine the two positions.

The Planning Dept has not made an effort to put forth a request for an administrative assistant. He noted that Carol Pontremoli was hired for a shared position. Sue asked if Carol would be full time or are we asking another full time administrative position.

Sue noted the Selectmen's meeting last week and noted there should be a working meeting. Jay noted based on what Jay has read he has looked at consolidation. Ann noted if the Town Manager can't see that the work is not getting done and put it off, he is placing both Boards in jeopardy.

Tom would like to make appointment with the Town Manager to discuss this.

Ann would like to see it go to Town Meeting as a last option. She also noted the Helen as the Chairman tried to speak with Town Manager and it did not happen. Carol Spack feels we should not speak about ZBA. She feels we should stay focused and only speak of our administrative needs. Sue feels the Board should make it clear the Planning Board have the ability to stay under their own and have the administrative staff under the Planning Board. Andrea Carr-Evans feels that the discussion should only be concentrated on the needs of the Planning Board and not to list the needs of the Zoning Board of Appeals. Ann feels from past experiences, not to give a board staff and not to give autonomy and take away the powers. Carol would like to address the fact that everyone should take this subject to every committee member. Tom feels if this needs to Town Meeting having the members and committee.

Sue made a Motion to adjourn
Ann Seconded
Voted 5 approve to 0 opposed

Meeting adjourned at 12:00 am

****THESE MINUTES WERE APPROVED WITH AMENDMENTS AT THE
PLANNING BOARD MEETING OF SEPTEMBER 28, 2004**

Thomas Mahoney, Chairman