

Present: Chairman Peter Abair, Christopher Morely, Marty Long, Dan Carty, and John Hincks (Associate Member), Meagen Donoghue (Director of Planning and Community Development) and Beth Suedmeyer (Environmental Planner)

Absent: Stephen Garvin

Approved by the Planning Board on October 26, 2016.

At 7:35 p.m., Chairman Abair called the meeting to order.

Meadow Walk – Review of Covenant for Stormwater Management Permit – National Development - 526 & 528 Boston Post Road (Assessor’s Map K07-0011 & K07-0013)

Present: National Development Vice-President and Senior Project Manager Steve Senna

At 7:35 p.m., Chairman Abair opened a review of the Covenant for Stormwater Management Permit with National Development regarding Meadow Walk, 526 & 528 Boston Post Road (Assessor’s Map K07-0011 & K07-0013). The Board was previously in receipt of copies of a series of emails from KP Law, National Development, Ms. Suedmeyer and Assistant Town Manager Maryanne Bilodeau dated October 11 and October 12, 2016. The revised final draft of the “Declaration of Restrictive Covenants and Grant of Easement Regarding Stormwater Management System” was distributed to the Board via email on October 12, 2016.

Ms. Suedmeyer stated counsels from both sides have agreed to the language in the document as provided to the Board tonight. She highlighted item #4 regarding insurance, which was the final language revised and agreed to by all parties. Ms. Suedmeyer noted this Covenant is substantially different than what the Town has previously used, and she suggested the Board might want to consider using the new document as a template in the future.

Chairman Abair stated the Board needs to accept this document and language so it can be sent to the Board of Selectmen for approval.

National Development Vice-President and Senior Project Manager Steve Senna thanked the Town for its patience while the document was finalized. He stated they wanted to be sure to get this first Covenant done correctly, since there will be others to follow for the stormwater management covenants.

Mr. Morely questioned why Lot 1 alone is being referenced when the stormwater management system will be for all 50 acres. Mr. Senna explained how the lots are divided, noting Lot #1 is for Whole Foods and retail building #2, and that this tenant is only responsible for this one lot of the total six lots.

Mr. Hincks asked if there will be a problem if different tenants operate their stormwater management systems differently. Mr. Senna explained there is a common stormwater infrastructure which all tenants will agree to help maintain. He also explained each property would have its own O&M plan associated with it. Mr. Senna further stated he has begun discussions with the Conservation Commission regarding whether the six O&M plans should be amended on the as-built plan and, at that time, create a seventh O&M to encompass everything.

Mr. Morely thought creation of a seventh O&M would make sense. He also stated the revised Covenant appears to be a good document for all parties. Mr. Morely repeated his only concern was that the Town has self-help rights only for Lot 1 according to the document.

Mr. Senna stated each Stormwater Management Permit Application will also include a Covenant, with the exception of Avalon Bay.

Chairman Abair asked for clarification regarding item #6 on page 3 of the Covenant, which Mr. Morely and Mr. Senna provided.

On motion duly made and seconded, it was

VOTED: To approve the “Declaration of Restrictive Covenants and Grant of Easement Regarding Stormwater Management System” document as reviewed tonight regarding Meadow Walk, 526 & 528 Boston Post Road (Assessor’s Map K07-0011 & K07-0013).

Tree Risk Assessment - - Silver Maple Tree Located at Fire Station 2 – 550 Boston Post Road – Discussion

Present: National Development Vice-President and Senior Project Manager Steve Senna

At 7:51 p.m., Chairman Abair opened a discussion regarding a tree risk assessment on a silver maple tree located at Fire Station 2 at 550 Boston Post Road. The Board was previously in receipt of copies of a letter from Horticultural Technologies Incorporated to National Development dated September 24, 2016.

With the use of site plan exhibits, National Development Vice-President and Senior Project Manager Steve Senna indicated the location of the tree. Mr. Senna explained this tree was mentioned in previous discussions and the intention had been to try to keep it. As part of the construction process, Mr. Senna stated an independent arborist was consulted regarding the status of the tree. He referenced the letter from Horticultural

Technologies Incorporated, which stated the tree is not in good health and recommended it be removed. Mr. Senna further stated the elimination of the tree would be represented on the plans for the Stormwater Management Permit application.

Chairman Abair asked how close the tree is to the lot line. Mr. Senna stated the trunk is within less than ten feet of the lot line, and the tree's canopy spans across the property line.

Mr. Morely stated he had been an early proponent of keeping the tree, but he now acknowledges it needs to be removed.

Chairman Abair stated the consensus of the Board is that the tree cannot be preserved.

It was noted that this discussion was as a courtesy of National Development, and that no action is required by the Board.

Mr. Long stated he was appreciative National Development hired an objective arborist as its consultant.

Irrigation Bylaw Amendment – Private Well Use Regulation – Informal Discussion

At 8:00 p.m., Chairman Abair opened an informal discussion regarding amending the Irrigation Bylaw related to private well regulations.

Ms. Suedmeyer explained the Town was approached by a citizen to amend the irrigation bylaw to regulate private well use. She stated the recent drought conditions and concerns for the water supply helped to prompt the discussion. Ms. Suedmeyer further stated the Sudbury Water District (SWD) also expressed interest in this topic. Thus, an ad hoc informal meeting was held with the concerned resident, Ms. Suedmeyer, Ms. Donoghue, and representatives of the Board of Health and the SWD. Ms. Suedmeyer stated a number of towns in the State have restriction bylaws to regulate private wells, since they draw from a common water resource and the option to include such restrictions to private well use is also presented in the MassDEP Model Outdoor Water Use Bylaw. She explained Sudbury's current bylaw is specific to irrigation, but, a revision to the bylaw could be drafted to include additional non-essential use. Ms. Suedmeyer stated the group would also like to invite a Planning Board representative to be appointed to join the meetings of the working group.

Chairman Abair asked if this is a citizens' group because it does not appear to be an official public task force/committee. Ms. Suedmeyer confirmed the group is not a formal one yet, but she noted it has a defined mission.

Mr. Carty stated he has concerns about appointing a Board member to serve if it is not a formal, official group. He questions if the Board would be overstepping its bounds, and

he asked if there are other examples when a board has appointed someone to serve in a similar manner. Mr. Morely stated he could not recall any other similar examples.

Mr. Morely stated that, if a bylaw were to be revised to be presented to voters, it would likely be presented by the Planning Board. If the group were to become official, he would prefer to have representation from the Planning Board early in its discussions rather than later.

The consensus of the Board was that the Selectmen should officially decide if this is an issue to pursue. Chairman Abair stated the Planning Board would look to the Selectmen for direction.

Mr. Hincks stated he anticipates this would be a complicated topic regarding water rights.

Mr. Long asked if any private well owners have been known to appeal similar restrictive bylaws. Ms. Suedmeyer stated the group is not aware, at this time, of any challenges made in other towns and that previous legal vetting was assumed since MassDEP suggests such regulations in its Model Bylaw.

Mr. Morely stated he is surprised the depth of drilling has not been broached as part of this recent discussion.

Ms. Suedmeyer stated she would share the feedback received tonight from the Board accordingly, and the discussion was closed.

Potential Subdivision – North Road (Assessor’s Map C10-0013) – Informal Discussion

Present: Developer Jason Blood

At 8:13 p.m., Chairman Abair opened an informal discussion regarding a potential subdivision on North Road (Assessor’s Map C10-0013), and he welcomed developer Jason Blood to the Meeting. The Board was previously in receipt of copies of a map of the relevant parcel.

Mr. Blood explained a parcel on North Road came to his attention, which he originally thought could be developed into several new homes. However, Mr. Blood stated he soon learned the property has numerous wetlands’ issues. He referenced the map provided to the Board, noting there is not enough frontage on Route 117 for even one home. Mr. Blood further stated he had hoped to put two new homes on the site, but there is not enough room to accommodate the turnaround area required by the Fire Department. He reiterated he would like somehow to put one new home on the site.

Mr. Morely stated the existing frontage on Route 117 is significantly less than the zoning requirement. It was noted a road would be needed for a subdivision and a variance.

Mr. Morely further stated the railway right-of-way, which is owned by the State, comes into play as needing to be crossed. He highlighted again that frontage is severely lacking.

Mr. Blood repeated that, with the required turnaround, there is no way to squeeze two homes onto the lot.

Mr. Morely noted that, according to the zoning requirements, both referenced lots appear to be landlocked.

Ms. Donoghue stated she has discussed with Mr. Blood her assessment that his proposal is highly improbable. She also informed Mr. Blood that he would need to provide proof that he meets the four established criteria for a variance, if he were to pursue one.

At 8:25 p.m., Chairman Abair stated the consensus of the Board is that the referenced lot is difficult and the Board cannot recommend any solutions, and he closed the discussion.

Mr. Blood thanked the Board for its time.

Miscellaneous

Special Town Meeting – Article 7

Present: Petitioner Bill Schineller

At 8:25 p.m., Chairman Abair opened a discussion regarding a Petition Article submitted for the Special Town Meeting (STM) by Bill Schineller, 37 Jarman Road, regarding Overhead Wires, and he welcomed Mr. Schineller to the Meeting. The Board was previously in receipt of copies of an email received from Mr. Schineller dated October 7, 2016.

Ms. Donoghue stated the Town Manager asked that the Board hear from Mr. Schineller prior to the STM, given that the Planning Board is being asked to conduct a study as part of the petition request.

Ms. Schineller stated he would like to take advantage of a State law which requires progressive removal of poles and overhead wires and prohibiting new installation or construction of such. He referred to his petition article, noting the Route 20 area could be aesthetically improved from such actions. Ms. Schineller suggested such efforts could be piggy-backed on to new projects as they come to fruition.

Mr. Morely stated this has been a widespread concern in Town for years and many committees/groups and boards have broached the issues. He further stated the issue is extremely costly, complicated and time-consuming to achieve. Mr. Morely stated pricing bids had been obtained at one time for the Route 20 corridor, and the costs were in the millions and it was anticipated it would take decades to complete. Mr. Morely also noted the Town already implements the first part of Mr. Schineller's petition, in that it prohibits

new installation of overhead wires for new construction. He further stated years have been spent trying to work with utility companies to remove and relocate old phone poles, which is far less costly than what is proposed.

Mr. Schineller stated he noted that a study should be done by the Planning Board in his petition because that is how it is presented in the State law. He further stated he assumes the eventual costs would be passed along to Sudbury residents as part of their utility bills.

Mr. Long asked if this petition is a preemptive attempt to block future Eversource transmission-line type projects. Mr. Schineller stated the Eversource transmission line project was perhaps the impetus for his thoughts, but his petition is not meant to be preemptive.

Mr. Schineller and Chairman Abair referred to the work done by the MAPC reporting on the issue of double-poles in the state.

Chairman Abair stated he would be interested to learn more about what other towns have done, and he suggested MAPC and other resources might provide a lot of information. However, to conduct the study, Chairman Abair stated the Board would need to look to Town staff or to possibly hiring a consultant, for which funds would likely need to be appropriated from a Town Meeting in 2017.

Mr. Morely opined that he believes the issue is much larger than the Town's staff and perhaps larger than the Town itself. As much as everyone would rather that the wires were underground, Mr. Morely believes it would be difficult to ask voters for millions of dollars to do this. Mr. Schineller stated he is not asking for funds at this time. However, the Board highlighted for Mr. Schineller that funds eventually would be needed to achieve his goal.

Mr. Schineller asked what he could report from tonight's discussion at the STM. Chairman Abair suggested he reports that he discussed the petition with the Board.

Mr. Morely stated his recollection was that when the Town Sewer Committees previously studied Route 20, it was estimated to cost approximately \$2 million per mile to put the utilities underground for the core Route 20 business district. Chairman Abair concurred.

Ms. Donoghue noted applications for this type of request would need to go to the Department of Transportation for Route 20, since the road is not owned by the Town. She also stated she has spent significant time recently researching the proposal, and she learned Chelsea's costs were estimated at approximately \$1 million per quarter-mile.

At 8:48 p.m., Chairman Abair concluded the discussion.

Minutes

Mr. Morely asked that the third paragraph under the heading “Irrigation Bylaw Amendment - Private Well Use Regulation - Informal Discussion” on page 5 of the September 28, 2016 Planning Board Meeting Minutes be revised to read as follows: “Mr. Morely stated some towns have water restrictions for private wells.” The rest of the original sentence can be deleted.

On motion duly made and seconded, it was

VOTED: To approve the meeting minutes of September 28, 2016, as amended tonight.

Upcoming Meeting Schedule

The next meetings are scheduled for October 26, 2016 and November 9, 2016 at 7:30 p.m.

The meeting was adjourned by Chairman Abair at 8:52 p.m.