

TOWN OF LINCOLN
MINUTES OF THE PLANNING BOARD

JULY 26, 2016

TOWN OFFICES

PRESENT: Margaret Olson (Chair) (MO), Lynn DeLisi (Vice-Chair) (LD), Richard Rundell (RR), Gary Taylor (GT).

STAFF: Jennifer Burney, Paula Vaughn-MacKenzie

7:00 PM PUBLIC HEARING CONTINUED, Section 17 Site Plan Review: DeNormandie, Old Winter Street & Silver Hill Road, Parcels 150-52, 56 & 58. Site Plan Review of a common driveway to service three lots. 7/26/2016.

Mr. DeNormandie and his attorney Mr. Giangrasso, appeared before the Board. Town Counsel also joined the discussion. This was a continuation of from the previous meeting where the applicant presented a plan for a shared driveway off Old Winter Street to service three lots. The neighbors along Old Winter Street opposed the plan citing safety and traffic concerns. The alternative is to have access to two of the lots from Silver Hill Road which would entail having the driveways constructed within the 50 foot wetland buffer zone.

The Board commented that the lots are developable lots but the technical issue is whether or not the Board can allow access to the three lots by a shared driveway. Mr. Bard commented that he did not think that the Zoning Bylaw specifically addresses allowing shared driveways. GT thought that Section 15 would allow the use of a shared driveway under Section 15.3.2 which requires parking to be maintained either on the same lot with the building or on another lot accessible to and within a walking distance of 600 feet from such lot. Mr. Bard noted that absent the Board's determination that Section 15 allows a shared driveway as part of required parking, he thought that the accessory use of a driveway on another lot was not otherwise allowed under the Zoning Bylaw. Mr. Bard stated that under case law, an accessory use not allowed by Zoning is not allowable if the Zoning Bylaw is silent. MO noted that it was possible to approve a minor street under the zoning bylaw if the lots were of sufficient size.

RR noted that he did not have a strong opinion. MO asked Joel Bard if it was his opinion that the Conservation Commission would have to grant access over the wetlands. Mr. Bard noted that the Conservation Commission would work with the applicant and that sometimes an applicant would be asked to span the wetlands. The Board noted that access would not be in the wetlands but rather in the 50 foot buffer. Mr. Bard responded that the determination would be made by the Conservation Commission.

MO noted that she was not inclined to bend rules to allow a shared driveway that Town Counsel feels is not allowable under the Bylaw. She would rather see a minor street with two lots or access from Silver Hill for two lots.

Mr. DeNormandie noted that he had come forward with the shared driveway plan because of comments by the Conservation Commission. He also noted that he was not trying to create frontage by using a minor street. He stated that he tried to follow all of the guidance that the Boards had given him and did not understand why the issue of whether or not a shared driveway is allowed under the Zoning Bylaw had not been raised before. MO responded that Town Counsel had just raised the issue and that the Board would follow the advice of Town Counsel.

Mr. DeNormandie's attorney stated that he had not had time to determine if the Planning Board has approved shared driveways in the past. He did note that Apple Meadow Farm appeared to have a shared driveway.

GT noted that Section 15 of the Bylaw allowed a driveway from the street to a parking area. He thought that clearly the access use of a driveway was allowed under this Section. In addition, he noted that this Section was not providing a vehicle to achieve lots that would otherwise be undevelopable. In this case, the interests of the neighbors on Old Winter were not the same as the interests of the Conservation Commission. Some members of the Board thought that the incursion into the wetlands was only minor.

JB asked if it would help to have a member of the Conservation Commission join the Board at the next meeting for a discussion regarding access for these lots. The Board agreed that would be a good idea.

GT noted that traffic congestion should not be a determining factor for the shared driveway as there is traffic congestion on many roads in Town. MO noted that the issue on Old Winter Street was the width of the street and the fact that at rush hour the narrowness of the street caused the traffic to essentially make the street one way. She noted that even with traffic, Silver Hill remained a two way street. RR noted that the addition of three lots with access to Old Winter would not have a significant impact on traffic but that he would rather see the two lots that have frontage on Silver Hill have their access off of Silver Hill. LD agreed with this.

Mr. DeNormandie asked for clarification of next steps. The Board suggested that the hearing be continued and that they would ask a member of the Conservation Commission to join the Board at the next hearing. Brian Levey, attorney for an abutter asked that he be invited to the meeting and asked that it be at a regularly scheduled Planning Board meeting.

RR made a Motion to continue the hearing until August 9, 2016 at 8:15pm. LD Seconded. Passed 4-0.

7:35 PM PUBLIC HEARING CONTINUED, Section 17 Site Plan Review: McLean, 16 and 22 Bypass Road, Parcels 109-15-0 and 109-16-0. Site Plan Review to designate parking spaces and address screening concerns at 16 Bypass and 22 Bypass Road. 7/26/2016.

The Board noted that at the last meeting on June 28, 2016, the Board discussed and stated that the remaining open issues for site plan review were screening the direct abutters, accessibility for fire safety vehicles, additional parking area by a modest modification to the driveway, and a garbage storage plan. PV-M explained that she had received approval from both the Fire and Police departments concerning the adequacy of the parking plan for safety vehicle access. In addition, the applicant has addressed the open issues. Regarding parking, the revised site plan shows four spaces moved off of the driveway at 22 Bypass. Two are relocated to the back of the property and two are relocated to the side of the garage. In addition the plan adds an 11' driveway that connects the driveway at 22 with the driveway at 16 Bypass. This new driveway enables cars to circulate more easily in a one way direction and provides additional space to address the concerns that cars may be parked in the right of way when parking becomes tight on the McLean property or people will be walking along the right of way to travel from one house to the other in bad weather.

The revised site plan shows three bollard lights along the new driveway connection, one at the beginning, one at the path to the front door of 22 Bypass and one at the far connection to the driveway at 16 Bypass. The bollards comply with the lighting guidelines of the Planning Board and the Zoning Bylaw. The bollards are 42 inches tall.

Ms. Tillotson indicated that all garbage will be kept inside the garage as requested by the Board.

Ms. Tillotson also requested approval for a residential sized Kohler generator. The specifications were submitted to the Board and the unit was one that has been previously approved by the Board.

Regarding Landscape and screening for the abutters, Ms. Tillotson submitted a revised landscape plan by Holly Samuels, the landscape architect who designed the original plan for 22 Bypass Road. Ms. Tillotson explained that she had walked the property with the landscape architect and had asked for input from all of the direct abutters. She had submitted the plan to Michael Fee who represents the abutters. Ms. Tillotson stated that she and Holly had walked the back property line from both the McLean side and the abutter's side. McLean has agreed to plant screening in that area but that there are a fair amount of invasive plants that will need to be removed before planting new vegetation. McLean will plant a mix of evergreens and shrubby types of plants. The plantings will have to be brought forward so that they can get light.

On the Mrakovich side, McLean proposes 12 7'-8' arborvitae plus additional plantings to make it more attractive. Ms. Tillotson noted that there currently exists thick vegetation as well as a fence on this side.

On the Kanner side, the screening plan adds a post and rail fence to mark the boundary line as well as arborvitae and other types of plants to make an effective screen. Ms. Tillotson noted that there currently exists thick vegetation closer to the street so that further screening is not required.

Ms. Tillotson noted that the remaining direct abutter, Mr. McCarthy is on an elevated lot so that screening would be ineffective. She also noted that Mr. McCarthy has encroached on the McLean property by extending his lawn area. She did think that adding a tree next to the deck on the McLean property at 22 Bypass and would possibly help the line of sight from the McCarthy property and also allow privacy for the deck area.

Ms. Tillotson concluded by saying that she felt the screening plan addressed most of the concerns of the abutters and that McLean would do its own maintenance and would agree to replace any plants that die.

LD noted that she thought the submitted plan as a whole was very well done with the new connecting driveway, added area for parking and adequate screening evergreen trees. GT noted his appreciation for the revisions that addressed parking and access for public safety vehicles.

MO next opened the floor to public comment.

Michael Fee noted that Ms. Tillotson had explained the process for abutter input accurately but would have preferred the abutters being able to walk the site with the McLean representative. He noted that Dr. Kanner was unhappy with the plan, Mr. McCarthy wanted vegetation, and Mr. Mrakovich wanted more screening. Mr. Mrakovich suggested an arborvitae wall surrounding both properties along with a chain link fence. He stated that his primary concern was security and was concerned that one of the McLean residents, should he want to exit the property would go straight through his.

Mr. Mrakovich then said that he was representing the other neighborhood residents in suggesting that the neighbors west of McLean's property abandon access via the shared driveway to the east end of the road, and that McLean configure a dedicated entrance directly off of Bypass Road to eliminate the problem of the tight curve and eliminate the cars for the McLean property traveling in front of the other homes. He suggested that 25 trips per day would be significant and that a dedicated entrance would solve his major traffic concerns on the easement. He asked that the Board make an application for such an entrance with Mass DOT a condition of the approval. He also asked McLean to abandon their easement rights along the right of way. Ms. Tillotson responded that McLean would be willing to explore the possibility of a new entrance and would agree to make an application and come back with the details but would not be willing to give up their easement rights. Ms. Tillotson noted that an application could be a condition of the site plan review but she did not want it to hold up a decision by the Board. MO noted that she thought this was reasonable and both LD and RR noted that they would like to see the details of the curb cut, proposed elevations, and driveway if Mass DOT approves the curb cut. Joel Bard noted that a condition could be put in the Board's approval that would require McLean to apply for and conscientiously pursue an application for a new curb cut with Mass DOT for as long as it takes. In the meantime, they can use the facility as is. Mr. Bard stated that the abutters should be advised that the process with Mass DOT is a long one and that it could take up to two years. RR noted that in the time that the application is pending, the neighbors would be able to see if abandoning access from the east end of the driveway was reasonable by barricading the road at that point in the meanwhile, to see if that would be something that they in fact wanted to pursue.

Mr. Mrakovich again asked McLean to abandon their easement rights and stated that the neighbors on his side of 22 Bypass would do the same for the driveway crossing McLean's parcels. The Board noted that every property owner would have to agree and that the Board did not want to compromise the neighbors' rights.

Dr. Kanner stated that he thought the screening on his side was inadequate. He asked McLean to extend the arborvitae down to the easement area. He also does not want his view to the meadow to be obstructed. He suggested that the proposed screening be curved into the McLean property to allow his view to the meadow to remain. Mrs. Kanner stated that she did not want to see any headlights from McLean vehicles during shift changes. Ms. Tillotson noted that the "meadow" was actually part of the property of 16 Bypass and not any sort of communal property. Ms. Tillotson would, however, look into adjusting the screening on Mr. Kanner's side in order to accommodate his requests. Mr. Kanner also asked that the planting of the arborvitae be spaced not more than five feet on center to provide immediate complete screening.

Other abutters wanted a fence surrounding the property. Arthur Anthony from 35 Brooks Road stated that he also wanted a fence.

Ernie Mrakovich stated that he was appreciative of the screening plan but would like McLean to look at the lower portion of the property line between his parents' property and 22 Bypass.

MO noted that she like the idea of McLean pursuing a separate access but was not inclined to require a fence surrounding the entire property. RR noted that security was not a question for the Planning Board.

MO also noted that the post and rail fence between the Kanner's property and 16 Bypass should remain and that the plantings could be moved to honor Dr. Kanner's request. Ms. Tillotson noted that she would prefer not having required plantings along the easement area which might be removed because of a new curb cut. She also did not want to plant trees that would interfere with the pull off area they would create in order to relieve any traffic concerns along the easement. Joel Bard suggested that a condition of approval could be that McLean would return to the Board in two years in order to review screening. McLean would have a decision from Mass DOT by that time and the screening could be reviewed in light of a new curb cut or lack thereof. The approval could also contain a condition that McLean report to the Board within a time certain that an application has been submitted to Mass DOT.

Ms. Tillotson suggested that McLean revise the landscape plan and submit it to the Planning Office to be made available for review by any abutters. The Board requested that a revised landscape plan be available in the Planning Office for two weeks.

LD made a Motion to close the public hearing. GT Seconded. Passed 4-0.

The Board requested that the Planning staff draft a Notice of Decision which would approve the site plan and which would contain a condition that McLean pursue an application for a new curb cut. The Board also requested that McLean submit a written extension for the Board to act until the September 13, 2016 meeting. Ms. Tillotson agreed. The Board noted that they would discuss the language of a draft Notice of Decision on August 9, 2016.

LD excused herself from the meeting at this time for personal reasons.

9:05 PM APPROVAL NOT REQUIRED, SECTION 2.0 OF THE RULES AND REGS GOVERNING THE SUBDIVISION OF LAND AND LAYING OUT OF WAYS: G. William Buttwin & Anita Marie Grassi, Daniel & Yolanda Cellucci, Sylvia A. LaFauci, 165, 167, 169 & 171 Lexington Road, Parcels 131-2-0, 131-3-0, 131-4-0, 131-5-0. Request for endorsement of an ANR plan to change Right of Way lines which will not create a new building lot. 7/26/2016

GT made a Motion to endorse the ANR plan. RR Seconded. Passed 3-0.

9:10 PM Business

Minutes: GT made a Motion to approve the June 28, 2016 minutes as amended. RR Seconded. Passed 3-0.

9:15 PM GT made a Motion to Adjourn. RR Seconded. Passed 3-0.

Submitted by Paula Vaughn-MacKenzie

Approved as amended October 11, 2016