

TOWN OF LINCOLN

MINUTES OF THE PLANNING BOARD

March 9, 2021

PLANNING BOARD ZOOM MEETING

PRESENT: Margaret Olson (Chair), Lynn DeLisi (Vice-Chair), Gary Taylor, Stephen Gladstone, Robert Domnitz

STAFF: Paula Vaughn-MacKenzie, Jennifer Curtin

ATTENDEES: Jennifer Glass, Susan Hall Mygatt, Andrew Glass, Nick Cristofori

7:00 PM Site Plan Review, Section 17.7: Koro, 1 Sweet Bay Lane, Parcel 160-16-0. Public Hearing for site plan review of proposed extension to an existing deck and addition of a pool in a cluster subdivision.

JC reported that the owners would like to construct an 18' x 48' in-ground swimming pool and an extension to the existing deck. The project is subject to Site Plan Review because the lot is part of a cluster subdivision. The lot area is 110,865 square feet or 2.5 acres. The cluster development was approved by Special Permit of the Planning Board on October 6, 1993. The lots shown on the approved cluster subdivision plan are exempt from the lot area and frontage, yard and widths of lot requirements. Instead, it provides for a building envelope. The approved building envelope is shown on the submitted site plan. There are no special conditions contained in the cluster documents that would affect this project.

The deck will be attached to the principal structure and located within the building envelope. The proposed pool is an accessory structure as defined in Section 23 of the Lincoln Zoning Bylaw. It will be located 40 feet from the lot line at the closest point, which complies with the 20-foot zoning setback requirements. The proposed pool will be located on an existing flat open lawn area and there are no trees proposed for removal. There are no grade changes or exterior lighting is proposed.

All abutters were notified via the Certified Abutters List procured from the Assessors Department. Abutters Feyza Marouf and Murat Arslan of 113 South Great Road expressed their support via email on February 17, 2021. Ann and Nat Parke of 111 South Great Road expressed their support via email on February 15, 2021. Paul and Ellen Shorb of 99 South Great Road expressed their support via email on February 17, 2021. Michael Chang of 10 Sweet Bay Lane expressed their support via email on February 11, 2021. No negative feedback was received regarding the project.

MO asked if site plan review expiration applies to clusters.

PV-M said that it does not apply to clusters.

She also reported that since the pool is not considered a "building" under the Zoning Bylaw it is not required to be located within the building envelope. She added that the lot is very large and the pool will not be visible from the road or the trails as it is blocked by vegetation, as shown on the submitted photos.

MO said that the pool is 40 feet from the property line which is an acceptable distance.

BD asked if the applicant has a presentation that they would like to make.

Mr. Koro said that he did not.

BD said that he drove by the property and could not see where the trail was located that leads back to the conservation trails.

PV-M said that the trail is on the private road (Sweet Bay Lane) and has a trail easement that allows for public access to the trails behind the applicant's property.

BD said that the topographic map appears to show that the pool will sit significantly lower than the road.

Mr. Koro said that the house is set about 12 feet higher than the road and the pool will be about 1 foot lower than the road. It will be an in ground pool.

BD asked if the applicant had checked the water table.

Mr. Koro said that he did not know.

BD said that, while he did not have any objections to the project since the neighbors did not have concerns, he believed that the pool would be visible from the road and that some plantings may be warranted.

Mr. Koro shared a photo showing that there is forsythia along the property and added that the pool area will not be visible from the road in the summertime.

MO moved to approve the project. SG seconded. Roll Call: SG aye, LD aye, MO aye, BD aye

7:15 PM Public Hearing: Review of the following proposed amendments to Section 14.3.2 of the Lincoln Zoning Bylaw dealing with Accessory Apartments.

Gary Taylor joined the meeting at this time.

PV-M presented the proposed changes to the Bylaw. 1. Delete Section 14.3.2 (c) Age of Structure, 2. Add a cap on the number of accessory apartments equal to 5% of all residential units and 3. Require a minimum rental term of 30 days where the accessory apartment or principal dwelling is occupied as a rental unit. She said that this is the same draft that was discussed at the February 23, 2021 Planning Board meeting with the only changes being wording and changing the cap from 10% to 5%.

MO asked if being in a hotel room for a night is considered a rental.

PV-M said that a hotel is different than a rental as it has different tax considerations.

BD asked if 30 day rentals would meet the goals of the town for housing as it may turn into an Airbnb situation. He said he would be in favor of a longer period than 30 days.

PV-M said that currently there is nothing in the zoning bylaw that addresses short term rentals.

SG said that currently any accessory apartment in Lincoln could be rented as an Airbnb for any length of time.

MO said that there has not been a problem up to this point and there is no regulation at all.

BD said that that this should be discussed further. He added that for every 9 accessory apartments that go into the Town's inventory, 1 apartment needs to be subsidized to keep the Subsidized Housing Inventory (SHI) above 10%.

Jennifer Glass said that there are often requests from residents on Lincolntalk seeking temporary housing for a number of pressing reasons that is not an Airbnb or a hotel. She asked for clarification on the change from 10% to 5%.

MO said that the change was done due to the impact on the SHI as it is easier to loosen rules than tighten. The Board agreed upon a 5% cap which is a substantial increase over what is currently existing in Lincoln.

BD said that there are currently 64 accessory apartments which is about 2% of the current housing stock in Lincoln. Since there are only a couple of units added per year currently, under a 5% cap there will be over 20 years before there are issues with the SHI due to this relaxation in the rules.

Ms. Glass asked if the cap is currently at 10% or if there is no percentage cap.

BD clarified that there is not currently a percentage cap.

Ms. Glass said that she was concerned that there was a percentage that was being lowered and more restrictive but that she was happy to hear that restrictions are being loosened with this change.

MO said that this is significantly loosening the rules to allow for more accessory apartments with the removal of the 10 year age requirement.

Ms. Mygatt asked if, hypothetically, she could build a new house with an accessory apartment in it with this change.

PV-M she said that would be allowed if it complies the normal review process.

Ms. Mygatt asked if there was an option for people to come and go without a rental.

PV-M said that if people are coming and going and not renting then they are considered visitors.

BD asked if there could be an enforcement mechanism included in this amendment to ensure that there is compliance with the 30 day rental requirement.

SG said that there are often people posting to Lincolntalk searching for short-term rentals and there are few, if any, available because people usually rent for long period of time. He agreed that if there were a problem with short term rentals it would have shown up by now.

MO said there is not much to do beyond the regular process if people are in violation of their special permit and shares BD's frustration with the lack of enforcement mechanisms.

MO moved to close the public hearing. SG seconded. Roll Call: SG aye, LD aye, BD aye, GT aye, MO aye

MO moved to bring the amendment to town meeting with the proposed language. GT seconded.

Discussion:

BD asked if there are options to change the language before Town Meeting.

LD said that there is not much that can be changed now that there has been a public hearing.

MO said that there are no substantive concerns about the current language and that if there are substantial changes to be made another public hearing should be held.

BD said that the language could be made looser without another hearing.

MO said that public input is necessary for any real changes.

LD said that there are no significant problems so the amendment should move forward with this language.

Roll Call: SG aye, LD aye, BD aye, GT aye, MO aye

7:30 PM Public Hearing: Review of the following proposed amendment to the Lincoln General Bylaw dealing with stormwater management.

PV-M presented the proposed addition of a new Section titled Illicit Discharge Control and Stormwater Management Bylaw, the purpose of which is to protect water quality and comply with federal requirements. This was supposed to be approved in 2020 but was delayed due to COVID. This will be a General Bylaw with the first half regulated under the Board of Selectmen and the second under the Planning Board. After TM approval, The Planning Board will draft, review and approve rules and regulations for the Planning Board's part in the Illicit Discharge General Bylaw.

Nick Cristofori, of Comprehensive Environmental Inc. (CEI), gave a presentation on the proposed amendment. CEI has worked with the town for 2.5 years on compliance with requirements for a Municipal Separate Storm Sewer System (MS4) permit. The National Pollutant Discharge Elimination System (NPDES) MS4 permit regulates potential pollutants discharged into bodies of water. This is an unfunded mandate that came from the Federal Government. Phase 1 of the permit requirement was released in 1990 and regulated communities with populations >100,000. Phase 2 of the permit requirement was released in 1999 and regulated communities with populations >1,000 (MS4 Communities). There are 6 different minimum measures, 3 of which are of greatest concern to the Planning Board:

1. Illicit Discharge Detection and Elimination (IDDE): A regulatory mechanism that prohibits illicit discharges, which is anything other than stormwater, into the stormwater system and allows the town to require the removal of illicit connections when discovered. This applies to the entire Town.
2. Construction Site Stormwater Controls/Regulations: Includes requiring the use of erosion and sediment controls, site plan review before construction, site inspections, and use of Low Impact Development (LID) controls. This applies when land disturbance is > 1 Acre.
3. Post-Construction Site Stormwater Controls/Regulations: Guarantees that, once projects are completed, discharges from the site are being properly treated and managed. This includes requiring LID controls, compliance with Massachusetts Stormwater Standards, containing and infiltrating stormwater volumes onsite, removing suspended solids and phosphorus with Best Management Practices (BMPs), and submittal of as-built and long-term Operation & Maintenance Plans (O&M). This applies when land disturbance is > 1 Acre.

The Town is currently under Consent Order from the State as this Bylaw was required to be in place last year. Due to COVID-19, the Town has until June 2021 for adoption.

Compliance with the MS4 permit is achieved by the adoption of bylaws and establishing regulations. IDDE and Stormwater are compiled into a single bylaw. The final draft is complete, has been reviewed and approved through Town Counsel, K-P Law, and will be presented at Town Meeting for vote. Regulations have been drafted to be adopted at a Planning Board meeting by the end of June 2021.

PV-M suggests that the Board work on the regulations after the Bylaw is approved. She added that the Board has required many of the pre and post construction regulations with large projects such as Oriole Landing, Minuteman School, and large residential projects. They have required consulting engineers, site monitors, stormwater being contained onsite, and BMPs. This seeks to codify much of the usual course of business that the Planning Board employs.

Mr. Cristofori said that current regulations meet some but not all requirements for compliance. These additions to the Town's general bylaw seek to meet all the requirements.

GT asked if this would apply to the School Building Project.

Mr. Cristofori said that this will have no bearing on existing projects.

BD asked if this impacts people who have a sump pump that pumps water into wetlands.

Mr. Cristofori said that it allows for uncontaminated groundwater to be pumped into the system as long as it does not cause a problem. Communities in the Cape with high groundwater have a registration process for sump pumps so if a problem arose they have the ability for tracking and enforcement but that may not be necessary in Lincoln. When sumps are being pumped into wetlands, Conservation may want to weigh in but MS4 is not triggered.

SG asked if there is a stormwater drainage system in Town.

Mr. Cristofori said that there is but it is fragmented. It is still considered part of the Town's regulated stormwater system.

BD said that site plan review standard conditions require stormwater be contained onsite and not flow onto neighbor's property or onto a public way.

Mr. Cristofori said that people will need to file application that they comply with phosphorus and total suspended solids removal requirements but that containing all stormwater on site would be sufficient if it meets all other requirements.

BD asked if older homes that were never under site plan review would be subject to stormwater standards.

Mr. Cristofori said that they would not be due to the fact that they are existing structures so it would not trigger construction or post-construction standards.

MO moved to close the public hearing. GT seconded. Roll Call: SG aye, BD aye, MO aye, GT aye, LD aye.

MO moved to bring this General Bylaw to Town Meeting. GT seconded. Roll Call: SG aye, BD aye, MO aye, GT aye, LD aye.

7:45 PM Historic District Commission presentation on the proposed addition of 11 Moccasin Hill Road to the Brown's Wood Historic District.

Andrew Glass presented the proposed addition. The home was built in 1975 and follows the design aesthetics of the Brown's Wood Historic District. It is a multilevel home that follows the topography of the land with a shallow sloped roof. It also has two story high, floor to ceiling, glass windows which create a connection between the exterior and interior of the house. This addition brings the total number of properties in the District to 14 which is over half of the properties in that neighborhood. The neighborhood has been supportive of adding properties to the Historic District. Approval for this addition was granted by the Massachusetts Historical Commission in December 2020. A public hearing was held to approve the application by the Brown's Wood Historic District Commission in January 2021. The homeowners are looking for the Planning Board's support of the addition of 11 Moccasin Hill to the Browns Wood Historic District.

MO moved to endorse the application for 11 Moccasin Hill Road to the Browns Wood Historic District. SG seconded. Roll Call: SG aye, BD aye, MO aye, GT aye, LD aye

8:00 PM Historic District Commission presentation on the proposed addition of 126 Old Concord Road to the Lincoln Historic District.

Andrew Glass presented the proposed addition. This warrant article was originally scheduled to be brought to the 2020 Town Meeting but was pushed back to the May 2021 Town Meeting due to COVID-19. The current house was built in 1941 and is built in a traditional style with a roof that grounds it to the landscape. It sits on the site of the original 1889 house. It is one of three houses that were built during the redevelopment of the Adams estate by John Quincy Adams. His vision was to conserve land and allow for public enjoyment through open space and trail access. With this addition, all three houses will be in the historic district. Olmstead Meadow stretches from the house to Fairhaven Bay and has a public trail that crosses it. Part of the homeowner's reason for joining the Historic District is to ensure that the meadow stay preserved and that the house will never impose upon it. The site was also part of Baker Farm which is written about in Walden by Henry David Thoreau.

MO moved to endorse the application for 126 Old Concord Road to be added to the Lincoln Historic District. LD second. Roll Call: SG aye, BD aye, MO aye, GT aye, LD aye

8:15 PM Business

- Approval of February 23, 2021 minutes.

GT moved to approve. MO seconded. Roll Call: MO aye, LD aye, GT aye, SG aye, BD aye

SG moved to adjourn the meeting. LD seconded. Roll Call: SG aye, BD aye, MO aye, GT aye, LD aye

Approved on March 23, 2021.