

APPROVED

MEETING MINUTES

Tuesday, January 25, 2022 Woburn Planning Board Meeting | 7:00 p.m.

Meeting held virtually via Zoom Platform

Cassidy stated the meeting was being recorded by both video and audio.

Chair Claudia Bolgen called the meeting to order at 7:00 pm and asked Planner Karen Smith to call the roll.

Mr. Jim Callahan, Mr. Kevin Donovan, Mr. Bob Doherty, Mr. Dave Edmonds, Ms. Carolyn Turner, Mr. Michael Ventresca and Chair Claudia Bolgen were in attendance. Planning Director Tina Cassidy and Planner Karen Smith were also in attendance.

PUBLIC HEARING (CONTINUED): LEGACY LANE SUBDIVISION: Modification request to retain the roadway as a private way, to be maintained by the private homeowners' association, rather than have the road become a public way maintained by the City after completion of construction / Frank Michienzi

Cassidy summarized the previous meeting stating the Board had requested clarification from the City Solicitor regarding their inquiry as to what rights property owners abutting a private way have with respect to that right of way, versus the rights property owners abutting a public way have with respect to the public way they abut. Cassidy stated after reviewing the letter in further detail, she has additional questions or issues that should be asked of the Solicitor prior to the Board making a final decision.

Specifically, Cassidy stated despite the Solicitor's mention that there are no distinctions between the two in the case of this subdivision, she does seem to answer the question that the Board's ability to prohibit the placement or installation of barriers intended to impede access does not mean that the roadway must remain open for safe travel by the public (in this case no right of access by the public is intended), but for the safe and convenient access for public safety personnel and equipment, trash removal, and mail or other delivery services.

Cassidy continued to pose questions such as: Are the abutters/owners of Legacy Lane only obligated to provide safe and convenient access for public safety personnel and equipment, trash removal, and mail or other delivery service? If so:

- Is this the only distinction between the rights of property owners abutting a private way and the rights of those who abut a public way?
- Who from the City is empowered to determine whether access provided on a private way is safe and convenient?
- How would those City seek resolution/correction of a situation where access was deemed unsafe/inconvenient? Via injunctive relief, or by some other action?

Cassidy continued to state that if the Board elects not to grant the request to make the road a private way, is it true that the way would become a public way maintained by the City, but also a way not formally accepted as a City street (at least not unless and until the City acquired either title or an easement in the roadway and then voted to formally accept it)? And in this scenario, if it wanted to acquire the rights necessary to accept Legacy Lane as a City street, exactly what steps would the City have to take?

Cassidy inquired if the Board shares any of her questions in terms of points or clarity and if so, would the Board like clarification from the Solicitor before taking a final vote.

Cassidy made one last point noting the developer submitted a modified as-built plan showing the location of signage but has yet to submit proposed text that will meet MUTC code.

Attorney Joseph Tarby of Rubin and Rudman, 600 Unicorn Park Drive, Woburn, MA, representing the developer, agreed with Cassidy stating he feels there are some additional questions that have been raised after reading the Solicitor's opinion. Tarby stated, on the issue of abutters rights in private ways, the City Solicitor has opined that the grantor, developer, did not retain the fee or an easement in Legacy Lane presents an issue with respect to the procedure for the acceptance of Legacy lane as a public way. Tarby noted the Solicitor has stated the city would need to obtain deeds and or easements in the ways from each lot owner and that process is difficult.

Tarby explained that when lots are conveyed in a public way or private way, the laws are deeded one of two ways a.) the developer retains the fee in the roadway or b.) they will convey the lot subject to the rights of land owners to pass and re-pass over the particular roadway as a public way. Taby stated on the first issue, the City Solicitor has concluded, based on the fact that there was no retention of the fee in Legacy Lane, it will be difficult to undo what has been done in order for it to become a public way. Tarby would like additional information from the Solicitor on that issue.

On the issue regarding the Planning Board's authority to impose condition, the city solicitor did indicate that the Board can impose a prohibition against the installation of barriers as a condition for modifying the subdivision approval of Legacy Lane as a private way. It is within the Board's authority to require the roadway as approved remain safely accessible and therefore the placement or installation of barriers intended to impede such access may be prohibited. Tarby stated the developer's request is in response to a Middle Street resident's tree removal service parking several large trucks on Legacy Lane. Tarby explained the location of the proposed signage on the modified as-built. He also briefly mentioned if the barriers remained, injunctive relief would have to be filed by the city or a neighbor and that would not become an issue if the proposed signs are adopted.

Ventresca stated clarity is needed on all remaining issues. He feels additional questions keep arising and feels their answers will not persuade how he feels. He would like the road to be maintained as a public way.

Bolgen stated she has questions about the ramifications of allowing the developer's request and would like additional information before voting on the issue.

Cassidy recommended the Board open the Public Hearing and continue the Public Hearing to February 8, 2022 at 7:00 pm. In addition, she recommended the Board instruct her to formalize a memo to the City Solicitor to receive feedback on the outstanding questions discussed above.

Bolgen opened the PUBLIC HEARING and asked if any audience members wished to be heard. Cassidy explained the process to participate in the virtual ZOOM meeting.

Matthew Michienzi, 1 Legacy Lane, Woburn stated his family would like to make this a private way for safety reasons. He spoke of Middle Street neighbor's landscaping trucks using Legacy Lane for parking and blocking resident's access. He reiterated several times that safety is the paramount concern.

Turner made a motion to accept the Director's recommendation and continue the public hearing on the Legacy Lane modification request to February 8, 2022 at 7:00 pm and sending a letter to the City Solicitor

with questions that the Planning Director outlined;
Seconded by Doherty ;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

PUBLIC HEARING: ROADWAY IMPROVEMENT PLAN 0 VILLAGE STREET

Bolgen stated Mr. Frederick J. Gonsalves has requested a continuance of the Public Hearing to February 22, 2022.

Cassidy stated this is a one lot subdivision that is a variant of an application from 2019 that was withdrawn. Salvati requested additional time to ensure that a number of issues raised by residents during the first round several years ago are addressed as he is coordinating a meeting with residents and the Woburn DPW. Cassidy recommended opening the Public Hearing and continuing the petition to February 22, 2022 at 7:00 pm.

Attorney Mark Salvati, 57 Arlington Road, Woburn, representing the applicant noted he received comments from DPW Director Jay Duran and the Engineering Department and would like time to meet with the applicant's engineer Mark Sleger. He would then like to set up a neighborhood meeting and address the neighbors concerns.

Bolgen opened the PUBLIC HEARING and asked if any audience members wished to be heard. Cassidy explained the process to participate in the virtual ZOOM meeting.

Deborah Finn, 1 Village Street, stated she has storm water and ground water level concerns and noted her proximity to the banks of the Middlesex Canal. She questioned the impact of the new development on her septic system; the necessity of the stabilized turn turnaround; the elimination of the proposed catch basin and underground infiltration system from the original plan with an above-ground retention basin; responsibility of the maintenance of the basin; drainage issues; elevation of the property; curbing; and the location of the property lines. Finn also questioned the need for the new fire hydrant stating they already have one on Cummings Ave and she feels that is sufficient.

Mr. Jerry Gorrasi, 11 Cummings Avenue, stated he was in favor of a continuance. He would like to meet with Attorney Salvati and review the project.

Shawn Dwyer, 43 Wilshire Drive, Londonderry, NH representing his mother, Regina Dwyer of 9 Cummings Ave, Woburn reiterated other people's concerns regarding water and drainage issues and stated he would be interested in attending the neighborhood meeting with the developer's attorney and DPW Director.

Cassidy recommended the continuation request be granted, and the public hearing be continued to 7:00 p.m. at the Board's meeting on February 22nd, 2022.

Bolgen stated it has not been determined if the meeting will be held in-person or virtually.

Motion by Doherty to accept the Director's aforementioned motion;
Seconded by Callahan;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

LEGACY LANE SUBDIVISION: REQUEST FOR EXTENSION OF CONSTRUCTION COMPLETION DATE

Cassidy recommended the Board table this discussion of a possible completion date extension so that the matter would be taken up along with the modification request at the February 8, 2022 Board meeting. The Board concurred.

CARLSON WAY SUBDIVISION: REQUEST FOR EXTENSION OF CONSTRUCTION COMPLETION DATE

Cassidy summarized the issue relative to the right-of-way, which is partially constructed by the way of installation of a gravel roadway within it, that was granted to the city. The question is whether or not the Planning Board's condition of approval requiring a gate and a fence is enforceable as the City Solicitor believes it is not. We've been trying to find a resolution working with the current property owner who has since loamed and seeded that easement. Cassidy stated they are working with the Public Works Director to come up with an arrangement that would be agreeable to all parties. The developer, Bryan Melanson, has requested a three-month extension of the completion date and therefore staff recommends the Board vote to extend the construction completion date to March 31, 2022 and revisit this issue at the first meeting in April.

Motion by Doherty to accept the Director's aforementioned motion;
Seconded by Turner;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

ROBERTSON WAY SUBDIVISION: REQUEST FOR EXTENSION OF CONSTRUCTION COMPLETION DATE

Cassidy stated the Board has previously decided the installation of a gate at the head of an easement at the end of the cul-de-sac would not be required. Staff is waiting for the submission of certification from the

developer's engineer confirming the subdivision was completed in substantial conformance to the approved plan in addition to the revised as-built plan.

Cassidy recommended that the Board grant an extension of the construction completion date to February 15th, as requested.

Motion by Doherty to accept the Director's aforementioned motion;
Seconded by Ventresca;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

CROSSMAN ROAD SUBDIVISION: REQUEST FOR EXTENSION OF CONSTRUCTION COMPLETION DATE

Cassidy stated the Planning Board last discussed this three-lot subdivision in September of 2021. At that time, work remaining to be completed included construction of two (2) homes, installation of sidewalk/curbing and submission of As-built and Street Acceptance plans. The developer was also in the process of completing an ANR plan for new lots on the westerly side of Crossman Road, having purchased that land earlier. In part he asked for the extension to December 31st so as to avoid damaging the new road and sidewalk with the heavy equipment that would be needed to build the homes on the westerly side of Crossman. In September of 2021, the Board extended the completion date from July 31, 2021 to December 31, 2021 with the understanding that an ANR would be filed likely in November.

Cassidy stated the pending request received from Mr. Cialdea's attorney, Mark Salvati, seeks a further extension of the completion date to August 30, 2022 and indicated the reason is because the developer underestimated the amount of time that would be needed to prepare the Land Court ANR.

Salvati stated the land his client purchased is registered land and the plan is very detailed. He remarked they are being realistic in asking for the August extension. Bolgen sympathized with Salvati regarding the slowness of the court system.

Cassidy recommended the Board vote to extend the subdivision completion date to August 30, 2022.

Motion by Doherty to accept the Director's aforementioned motion;
Seconded by Edmonds;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye

Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

PLANNING BOARD DIRECTOR UPDATE:

Cassidy recapped stating items on the agenda for the February 8, 2022 virtual meeting include: **(a)** discussion of extensions of completion dates for the Baker Way and Alan Gerrish Drive subdivisions, **(b)** discussion of potential increases to fees charged by the Planning Board, and possibly **(c)** continuation of the public hearing on the Legacy Lane subdivision modification request. The Board will also need to decide if the February meeting will be in-person or virtual.

Bolgen stated given the current state of affairs regarding COVID, her benchmark with regard to the virtualness of meetings is whether the Trial Court of the Commonwealth is actually having jury trials. As of now, jury trials are on hold until February 14, 2022. Bolgen stated the Board will re-evaluate the situation at the next meeting on February 8th.

APPROVAL OF MINUTES: JANUARY 11, 2022 MEETING

Motion by Doherty to accept the January 11, 2022 Planning Board minutes as drafted;
Seconded by Callahan;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye
Bolgen-Aye

The motion carried, 7-0-0.

ADJOURNMENT

Bolgen asked if there were any other business matters that may legally come before the Board not known at the time of posting. Cassidy replied there were none.

Seeing no further business, Doherty made a motion to adjourn the January 25, 2022 Planning Board meeting at 7:49 p.m.;

Seconded by Edmonds;

Roll call vote on the aforementioned motion:

Doherty-Aye
Callahan-Aye
Donovan-Aye
Edmonds-Aye
Turner-Aye
Ventresca-Aye

Bolgen-Aye

The motion carried, 7-0-0.

The meeting adjourned at 7:21 p.m.

Table of Documents Used and/or Referenced at Meeting

PUBLIC HEARING: Legacy Lane Modification: Memorandum dated December 15, 2021 to Ellen Callahan Doucette from Planning Board requesting opinion; Memorandum dated January 5, 2022 from Ellen Callahan Doucette regarding Abutter's rights in Private Ways and Planning Board's ability to condition private ways; Draft list of questions to be submitted to City Solicitor; As-Built plan dated January 24, 2022
O VILLAGE STREET / ROADWAY IMPROVEMENT PLAN: Complete application submitted on December 17, 2021; Department Head comments received from: Engineering 1/11/22, Inspectional Services 1/11/22; Conservation Commission 1/11/22, Police Department 1/19/22, Fire Department 1/11/22; Email correspondence from residents: Winn/Finn (1/19/22), Gorrasi (1/18/22), Dwyer (1/19/11); Attorney Salvati request of continuance to February 22, 2022 (1/19/22).
LEGACY LANE SUBDIVISION: Attorney Tarby letter dated January 6, 2022 requesting extension of time; Engineering Department email dated January 6, 2022;
CARLSON WAY SUBDIVISION: Planning Director email to Bryan Melanson dated 1/14/22; Melanson email response dated 1/19/22
ROBERTSON WAY SUBDIVISION: Planning Director email to Bryan Melanson dated 1/14/22; Melanson email response dated 1/19/22
CROSSMAN ROAD SUBDIVISION: Attorney Salvati letter dated 1/19/22; City Engineering Department letter dated 1/20/22
DRAFT MEETING MINUTES: December 14, 2021 meeting

Respectfully submitted,

Karen Smith

Karen Smith
Planner