

APPROVED

MEETING MINUTES

Tuesday, December 13, 2022 Woburn Planning Board Meeting | 7:00 p.m.

Meeting held virtually via Zoom Platform

Planning Director Tina Cassidy stated the meeting was being recorded by audio and video.

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

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

Cassidy suggested they would take matters out of order and address the 24 Flagg Street Subdivision first on the agenda.

24 FLAGG STREET SUBDIVISION: Expiration of construction completion date

Cassidy summarized the previous meeting stating the developer asked for an extension of the completion date for one year, to December 2023. The City's Engineering Department had expressed some concern that the balance of the bond currently being held as surety might not adequately cover the cost of construction and therefore, the Board agreed to have engineering update the cost estimate. Mr. Gately was very responsive, contacting the Engineering Department the next morning. They advised him that he should provide a cost estimate through his own engineer and that the City would then review it to ensure that it concurred. Mr. Gately did so, and the estimates were off by approximately \$3,000. Cassidy suggested the Board consider granting the extension to the end of December and requiring the developer to submit updated calculations in six months' time. If additional funds were thought to be needed to adequately cover the cost of outstanding construction items at that time, then Mr. Gately could post any additional surety then, if the Board felt it was warranted.

Gately said he would agree to review the surety in six months.

Cassidy recommended the Board either extend the construction completion date to June 2023 that would coincide with a surety recalculation, or extend the date to December 2023 and agree to a recalculation in June with the condition he would post any difference if the Board found additional money needed to be posted.

Callahan motioned to grant a twelve-month extension to December 1, 2023 and to leave the bond at the current dollar amount of \$44,000.

Bolgen asked for clarification from Callahan as to whether or not his motion included any wording with regard to a bond recalculation and Callahan confirmed it did not.

Second by Turner with no further discussion;

Roll call vote on the aforementioned motion:

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

The motion carried, 7-0-0.

CARLSON WAY SUBDIVISION: Expiration of construction completion date

Cassidy summarized this subdivision last appeared before the Board in April of 2022. Since that time, a portion of the sidewalk in front of the easement has been completed along with a certification from the design engineer that the construction meets the appropriate requirements under code. Before the Board is the discussion of the easement on the property of 17 Carlson Way. The Board required the creation of an easement from Carlson Way to the back of the property line along 17 Carlson as a condition of approval. The developer built a graveled path along the the easement but did not put up the required fence and gate around the easement area. The City Solicitor determined that the fence and gate requirement was not sufficiently clear in the record and in the documents that would have been available to the property owner prior to purchase for them to have known of this fence requirement. The property owner is not in favor of the fence and the City Solicitor felt there was nothing the Board could do at this point to compel it.

Cassidy continued to explain the scenario and spoke of her discussions with DPW Director Jay Duran as his department is the one that would need to use this easement for access to the back of the property. Duran's main concern is to make sure the easement area is well marked as he does not want to damage private property or create a potential financial liability for the City. The property owner is not in favor of flush-mounted stone bounds to mark the edge of the easement, but he would be amenable to a planting at the corner of the easement so it can act as a visual mark for the DPW and others that need to access the easement. The species/type of planting needs to be determined along with exact location of planting, keeping in mind that any planting within the front setback cannot exceed three (3) feet in height.

"No Parking" signage must be installed on the street to mark in front of the new area that acts as an apron for DPW trucks to drive over the sidewalk into the easement. The Building Inspector expressed concern to make sure that easement access area is never used as a parking space similar to a driveway that would create zoning issues relative to maximum driveway widths per parcel. To avoid that potential zoning violation, the Building Inspector would also like to see "No Parking" signs erected. The developer must have the Traffic Commission authorize the signs' erection and then purchase the signs. DPW will install them.

Cassidy continued to state that the Building Inspector recommends the design engineer expand the apron area on the As-Built Plan to incorporate the location of the above-referenced planting in addition to including a note that states the apron is not going to be used as a driveway or for any parking and that it is specifically for access only by city vehicles for the purpose of accessing the easement.

Cassidy stated there are three options: 1.) revoke the bond and the Planning Director will take the steps to complete the outstanding work and return any balance on the bond to the developer; or 2.) grant the developer another extension of time to allow him to install the planting and the no parking signs; or 3.) spoken by Attorney Mark Salvati, representing the Developer Bryan Melanson, the planting of the shrub and the no parking signs were not part of the original subdivision approval. Salvati requested the Board consider granting the Certificate of Compliance and they will agree to do the signs and plantings in the Spring. Salvati also stated they will accept any Board decision.

Ventresca inquired as to who is responsible for maintaining the easement. Cassidy stated the City is requiring the gravel easement, although it is on someone's property, the City would be responsible to prevent it from looking unkempt. Cassidy inquired an opinion from Attorney Joseph Tarby, representing the owner of 17 Carlson Way, who stated his client is willing to maintain the lawn within the easement as they currently do.

Ventresca followed up noting that this solution does not coincide with the as-built plan. Cassidy stated she does not believe the signs and planting change/modify the approved subdivision plan, but feels adding those items and the above-referenced statement to the required as-built plan will address the Building Inspector's concern.

Callahan inquired about the contents of the Homeowner's Association Agreement and what is covered for maintenance and upkeep. Cassidy stated the easement is on land owned by Mr. Haggerty specifically and there are not utilities within the easement, it is only an access easement. Callahan confirmed the property owner knew there was an easement on his property when he purchased the lot and that he was not allowed to put any permanent fixtures within the easement. As to the latter, Cassidy said she could not confirm that but noted the homeowner has not put anything permanent within the easement that she knows of. Callahan stated he has no issue with the homeowner maintaining his own property. Cassidy clarified the homeowner would not agree to a post and rail fence enclosure and gate along the easement and that is why the Board is trying to create an alternative with a planting at one corner of the easement.

Bolgen summarized the two potential main items which are a.) to give the developer one last opportunity to get the planting approved by the homeowner and installed, and the no parking signs authorized by the traffic commission and b.) to have the developer submit an accurate As-Built Plan and the impetus for all of this is that DPW's Duran wants to be sure that his people know when they access this parcel that they're on the easement only and they're not impacting the homeowner. Bolgen asked the Board how they would like to proceed, given the numerous times this subdivision appears before the Board with the same items unresolved and the fact that Cassidy is open to overseeing the completion of the outstanding items for the betterment of the City.

Ventresca, understanding the Director's frustration and noting the fact that it needs to be a delineated easement and that putting the onus on the developer has yet to accomplish anything discussed the route of taking the bond.

Cassidy stated she would understand if the Board voted to give the developer one additional six-month extension with no further extensions. Salvati requested a six-month extension and he would file with the Traffic Commission for the no parking signs and get the shrub approved by the owner and installed. Salvati also stated if the work is not completed within that time period, the Board may take the bond noting the City would get the work done quicker than the developer.

Callahan expressed his concern and disappointment regarding Salvati's comment on behalf of the applicant saying the City can get two signs and a shrub installed quicker than the applicant after the Board has frustratingly granted many extensions prior. Callahan stated he will look to rescind the bond if that is the attitude.

Motion by Doherty to extend the construction completion date to June 30, 2023;
Seconded by Ventresca with discussion that there be no further continuances granted extending the completion date beyond that point;

Ventresca's suggestion accepted by Doherty to amend the motion to add no further continuances should be expected;

No further discussion on the motion;

Roll call vote on the aforementioned motion:

Callahan-Aye
Doherty - No
Donovan-Aye
Edmonds - No
Turner-Aye
Ventresca - Aye
Bolgen-No

The motion carried, 4-3-0.

PLANNING BOARD DIRECTOR UPDATE

Cassidy stated the Board's next meeting is scheduled for January 10, 2023 and members decided the meeting will be virtual. Possibly on the agenda will be a presentation by the city's consultants, VHB of a draft Feasibility Study evaluating the possibility of creating a shared use path (SUP) along the Middlesex Canal and the former Woburn branch of the Boston & Lowell railroad right of way. The City Council, Recreation Commission and Conservation Commission would also be invited to attend. The Board will also hold their annual election of officers that evening.

APPROVAL OF MINUTES: NOVEMBER 15, 2022 MEETING

Bolgen states that next on the agenda is approval of the previous meeting's minutes. She asks if anyone is prepared to make a motion.

Motion by Doherty to approve the November 15, 2022 Planning Board minutes as submitted;

Seconded by Edmonds;

Roll call vote on the aforementioned motion:

Callahan-Aye
Doherty - 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 December 13, 2022 Planning Board meeting at 7:37 p.m.;

Seconded by Turner;

Roll call vote on the aforementioned motion:

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

The motion carried, 7-0-0.

The meeting adjourned at 7:37 p.m.

Table of Documents Used and/or Referenced at the December 13, 2022 Meeting:

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| <u>CARLSON WAY SUBDIVISION:</u> Email exchange dated November 2 thru 7, 2022 with Salvati, Tarby, Quinn, Melanson, Cassidy and Duran; Additional emails dated December 12, 2022 between Cassidy, Tarby and Salvati. |
| <u>24 FLAGG STREET SUBDIVISION:</u> Email dated December 7, 2022 from developer George Gately's engineer David Romero including revised cost estimate; Memo dated December 8, 2022 from City Engineer Greg Rheume regarding construction completion cost estimate review. |
| <u>DRAFT MEETING MINUTES:</u> November 13, 2022 meeting |

Respectfully submitted,

Karen Smith

Karen Smith
Planner