Approved MINUTES
Tuesday, March 10, 2020 Meeting | 7:00 p.m.
Engineering Conference Room, Woburn City Hall, 10 Common Street, Woburn, MA

Chair Kevin Donovan called the meeting to order at 7:00 pm and asked City Planner/Grant Writer Dan Orr to call the roll.

Mr. Dave Edmonds, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. Michael Ventresca, Mr. Bob Doherty, and Chair Kevin Donovan were present; Ms. Carolyn Turner was absent. Planning Director Tina Cassidy and City Planner/Grant Writer Dan Orr were also present.

PUBLIC HEARING: PROPOSED TEXT AMENDMENT TO SECTION 11 OF THE WOBURN ZONING ORDINANCE ENTITLED "SPECIAL PERMITS AND VARIANCES" BY ADDING A NEW SECTION 11.13 ENTITLED BOARD OF APPEALS MODIFICATION OF SPECIAL PERMITS AND VARIANCES (Alderman Anderson)

Cassidy provided an overview of the proposed zoning text change and stated that the proposed change incorporates the Zoning Board of Appeals (ZBA) into the process of modification of special permits and variances. If passed, the pending measure will afford the Zoning Board of Appeals some of the same latitude and ability to approve plan and decision amendments that were recently given to the City Council and Planning Board by a similar amendment relative to special permits.

Cassidy described differences between this proposal versus the recent Zoning Ordinance passed by the City Council (Section 11.12 Modification to Special Permits) including that a simple majority of ZBA members will be required to approve a minor modification whereas the Council and Planning Board will need a 2/3 majority; and that the ZBA will not be empowered to make major modifications, such that any change found not to be minor would automatically be denied.

Cassidy stated that at the conclusion of discussion she would recommend a favorable recommendation of adoption to the proposed ordinance with two amendments: That the draft ordinance be revised before passage to (a) authorize the ZBA to approve major as well as minor modifications and (b) require a two-thirds vote of the ZBA to approve either type of modification.

Ventresca asked for clarification as to what constitutes a majority of ZBA members to modify special permits. Cassidy responded that Massachusetts General Laws define it as three members of a three-member Board, four members of a five-member Board and two-thirds of a Board with more than five members.

Callahan inquired as to which, if any, departments are involved as a matter of course relative to the ZBA seeking professional recommendations from City staff in making its zoning determinations. Cassidy stated that she is not necessarily familiar with the process of recommendations for the ZBA but she is aware of the Council's process, which is only to request comments from the Planning and Engineering Departments.

Donovan stated that this is a public hearing and asked if any members of the audience wished to speak on the petition. There were none.

PUBLIC HEARING

Seeing none, motion to close the public hearing made by Bolgen;
Seconded by Doherty;

Motion carried, 6-0-0.

Ventresca asked for clarification from Callahan, through the Chair, as to his thoughts on the major versus minor modification. Callahan stated that he believes that the expertise of various departments, such as the Department of Public Works or the Planning Board, would be worthwhile to solicit in particular instances.

Cassidy stated that a recommendation like that (that the ZBA and Council seek input on applications from more than just the Planning and Engineering Departments) does not necessarily have to be incorporated into the proposed zoning text; the "review" recommendation can be otherwise included in the Board's report.

Ventresca made a motion to accept the Planning Director's recommendation, revised to include a language suggesting the best practice of soliciting the input of various departments in cases where appropriate;
Seconded by Bolgen;
Motion carried, 6-0-0.

DISCUSSION/DECISION: 3 Sherman Terrace Preliminary Subdivision Plan (Kathleen Paulsen)

Attorney Mark Salvati, 10 Cedar Street, approached the Board on behalf of the Petitioner to provide an overview of the existing lotting and roadway conditions servicing the existing residence at #3 Sherman Terrace.

Attorney Salvati further stated that, at the recommendation of the Planning Director, he has researched the number of potential subdivisions that might be filed in the future with the intent to improve/build-out substandard (less than 35-feet wide) rights-of-way and found that there are very few such potential scenarios.

Attorney Salvati further stated that the applicant is taking the approach of presenting this application as a preliminary subdivision to receive input from the Board on a potential build-out, because it could not be processed as an ANR due to the deficiency in required frontage.

Attorney Salvati stated that the plan has been filed with the intent to maintain the roadway as a private way, although the developer may seek City coverage of snow plowing responsibilities.

Engineer Mark Sleger, Alan Engineering, 110 Winn St #209, approached the Board on behalf of the Petitioner to provide an overview of the roadway layout, utility installation, and drainage provisions on the preliminary plan.

Sleger continued to review the proposed roadway easement that would be utilized for the purpose of turning around larger emergency vehicles and identified the existing fire hydrant that would also service the new residences.

Bolgen asked for clarification of what is being proposed in terms of lotting and number of new structures. Salvati responded that for zoning purposes the affected land may be considered as one (1) lot being subdivided into two (2) lots, with one net new residential structure (an existing residential structure is to be razed and a new one built to replace it). Salvati added that the current owner of #4 Sherman Terrace obtains access to their home exclusively via Sherman Terrace, whereas #3 and #31 Sherman Terrace utilize the roadway for partial access.

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Members discussed the current contours of the site via printed GIS map.

Cassidy stated that she is aware that the DPW Superintendent takes issue with the presence of the utilities running over private land instead of in the right-of-way; he would prefer that they are incorporated into the right-of-way. Salvati stated that he is willing to further discuss this topic with the Superintendent to ensure that a proposed HOA maintains responsibilities for all utility maintenance.

Callahan stated that the applicant should take all fire apparatus into consideration when drafting a definitive plan such that the proposed roadway easement is sufficiently sized to accommodate all emergency vehicles.

Members asked for clarification of the placement of the catch basin with respect to the existing grading and the composition of water services. Sleger responded that roadway grading profile will sufficiently channel runoff and that the plan incorporates 1-inch individual water services for each house.

Sleger added that existing water and sewer lines actually fall within private property.

Salvati stated that the roadway is already being plowed by the Department of Public Works. Alternatively, the HOA is a legal instrument that can provide abutting property owners with some opportunity for shared maintenance, but that may not be necessary in this case.

Callahan stated that his concern relates to snow plowing short subdivision roads over the long term. Salvati responded that the proposed HOA document would require private maintenance for all drainage/roadway components and reiterated the exception of plowing, which is already undertaken by the DPW.

Cassidy stated that she believes that it is worth the Board taking the trend of developing substandard rights-of-way into consideration and, to that end, has asked Attorney Salvati to determine the number of potentially developable lots on substandard roadways. Salvati responded that he identified under 35-foot right-of-ways throughout the City based on the City's Assessor's Map database. He estimated there are 40-50 such rights-of-ways; however, most of them do not appear to be realistically developable due to their existing residential density.

Salvati stated that he would ask that the Board continue this matter to its next meeting to allow sufficient time for his client to address the concerns of the DPW Superintendent. To that end he would request a continuance of discussion of this filing to the next Board meeting and will provide a written extension of time for Board action on this filing to April 15, 2020 on behalf of the applicant.

Cassidy stated that she would recommend the Board: 1) accept the offered extension of time for Planning Board action on this filing to April 15, 2020; 2) continue discussion on this petition to the Board's next meeting on March 24, 2020; and 3) require the applicant to submit a list of waivers that would be required if the current application were to be processed as a definitive subdivision.

Motion to accept the Planning Director's recommendation, as submitted, made by Doherty;
Seconded by Bolgen;
Motion carried, 6-0-0.

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ROBERTSON WAY DEFINITIVE SUBDIVISION (Melanson Development Group)

Cassidy provided an overview of the developer's request to extend the subdivision completion date to May 1, 2020 and a request to reduce the developer's current form of surety to $5,000, to reflect the fact that only preparation of an as-built plan remains outstanding.

Cassidy stated that she would not recommend the Board take any action on this request this evening given the number of outstanding issues that have in fact been discovered. The definitive plan shows the creation of an "emergency vehicle and conservation commission access" easement for the City's benefit that appear never to have been conveyed, a security gate was to be installed at the point of the easement and has not been, and certification from the project engineer that actual construction substantially conforms to the approved plan has not been submitted.

Mr. Brian Melanson, project developer, approached the Board to state that he knows that there is still some work outstanding and does not foresee any issues obtaining the required access easements or obtaining the aforementioned statement from the current project engineer.

Melanson stated that his hope is the Board will take action this evening on a reduction given that the amount of the surety being held far exceeds the value of work remaining. He would like to request that he not be required to install the security gate, since there is no need for it.

Cassidy stated that she would not be in a position to recommend any amount of bond reduction to the Board this evening without a response/recommendation from the Engineering Department as to a cost estimate for the amount of remaining work.

Doherty stated that he would be comfortable with a reduction of the current surety amount to $20,000, which seems more than sufficient amount to cover the cost of outstanding work, in addition to a 15% contingency. Melanson concurred with the amount proposed.

Cassidy stated that the most appropriate channel in the case of any subdivision modification would be to hold a public hearing to consider and approve the modification. The developer might submit an as-built plan that did not include the gate, and if the Board could theoretically have approved the plan then the gate would not be installed. Bolgen stated that the Board must consider the limits of its discretion in accepting an as-built plan that does not completely align with an approved subdivision plan. Adopting such a practice could compel the Board to accept even more substantially non-conforming as-built plans in the future. Cassidy responded that she would be willing to request guidance from City Solicitor Ellen Callahan Doucette to address that question. Members were in agreement with this approach.

Motion to reduce the developer's amount of surety, from the $87,504 currently held to $25,000, made by Callahan;
Seconded by Doherty;
Motion carried, 7-0-0.

Motion to extend the Robertson Way subdivision construction completion date to May 1, 2020, made by Callahan;
Seconded by Doherty;
Motion carried, 7-0-0.

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PLANNING BOARD DIRECTOR UPDATE

Cassidy stated that the Planning Board's next meeting, scheduled for March 24th, is currently slated to include the continued discussion of the Sherman Terrace preliminary subdivision filing.

ADJOURNMENT

Seeing no further business, Bolgen made a motion made to adjourn the meeting at 8:07 pm;
Seconded by Doherty;
Motion carried, 6-0-0.

The meeting adjourned at 8:07 pm.

Table of Documents Used and/or Referenced at Meeting

Planning Board Staff Report for March 10, 2020
Staff Report Attachments (Zoning Amendment Sec. 11.13): (1) Order Board Of Appeals Modification of Special Permits and Variances; Red-line version of proposed changes; (2) Copy of Zoning Amendment 11.12 Modification of Special Permits
Staff Report Attachments (3 Sherman Terrace Preliminary Subdivision): (1) Proposed subdivision plan and application materials; (2) Departmental comments received to date
Staff Report Attachments (Robertson Way Definitive Subdivision): (1) Developer's request letter and Construction Cost Estimate detail; (2) Engineering comment letter relative to proposed completion date extension request and bond reduction request

Respectfully submitted,

Dan Orr

Dan Orr
City Planner/Grant Writer

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