

HINGHAM PLANNING BOARD MINUTES

July 10, 2023 @ 7:00 PM

REMOTE MEETING

Planning Board Members Present Remotely: Kevin Ellis, Gordon Carr, Rita DaSilva, Tracy Shriver, and Gary Tondorf-Dick

Also Present: Emily Wentworth, Community Planning Director; Michael Silveira, Senior Planner

Members Absent: None

At 7:00 PM Chair Ellis called the Planning Board meeting to order and stated the following:

“This meeting is being held remotely as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 and all other laws, temporarily amending certain provisions of the Open Meeting Law. You are hereby advised that this meeting and all communications during this meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. If any participant wishes to record this meeting, please notify the chair at the start of the meeting in accordance with M.G.L. c. 30A, § 20(f) so that the chair may inform all other participants of said recording.”

Hearing(s) & Discussion

9 Wompatuck Road Site Plan Review Waiver

Chair Ellis noted that the first item on the agenda was an application of 182 Newbridge LLC for a waiver of Site Plan Review under § I-I of the Zoning By-Law, to modify plans originally approved April 7, 2023 to add a terraced wall in place of the approved retaining wall in the rear yard at 9 Wompatuck Road in Residence District A.

Mr. Leo Yazykov presented the application to the Board.

Chair Ellis invited Board questions/comments.

Member Tondorf-Dick asked for clarification with respect to the grading in relation to the proposed walls.

Mr. Yazykov reviewed the proposed grading.

Member Carr asked for confirmation that the proposed change would not affect the abutters, to which Mr. Yazykov responded that there would be no effect on the abutters as a result of the proposed wall modification.

Chair Ellis invited public comment. There was none.

Based on the information submitted and presented during the hearing Chair Ellis made the following proposed finding:

That the proposed modifications do not materially or adversely affect conditions governed by the Site Plan Review Design and Performance Standards set forth in § I-I of the Zoning By-Law; as such, the project constitutes a minor modification of the Site Plan Approval, issued April 7, 2023.

Kevin Ellis made a motion, seconded by Gary Tondorf-Dick, to WAIVE Site Plan Review under § I-I, 9 of the By-Law in connection with the terraced retaining walls modification at 9 Wompatuck Road in Residence District A.

The motion passed unanimously by roll call vote.

213 & 215 Cushing Street Definitive Flexible Residential Development (FRD) & Site Plan Review

Chair Ellis noted that the next item on the agenda was an application of Bristol Bros. Development Corp. for Modification of a Definitive Subdivision, originally approved May 25, 1965, under the Subdivision Control Law and the Rules and Regulations of the Hingham Planning Board to construct a minor street, along with a Definitive Flexible Residential Development Review under § IV-D and Site Plan Review under

§ I-I of the Zoning By-Law for a Flexible Residential Development consisting of eight single-family dwellings on 7.48± acres of land in Residence District C and the Accord Pond Watershed and Hingham Aquifer Protection District.

Attorney Jeffrey A. Tocchio, Esq., attorney for the Applicant, presented the changes and submissions since the last substantive hearing on this matter on May 1, 2023. These consisted of satisfying any outstanding peer review comments, changing the proposed street lighting per the Board's request, and reducing the number of waiver requests.

Chair Ellis invited Board questions/comments.

Member Tondorf-Dick asked questions of clarification regarding the proposed condominium documents with relation to the storm drainage system, typos, owner occupancy, and moderately priced home, to which Attorneys Jeffrey Tocchio, Esq., and Scott Golding, Esq., responded by reviewing certain specifics of the documents and Applicant's vision. Member Tondorf-Dick also asked about the phasing of the project, blasting, and fire truck turning to which Ms. Taylor Corsano, engineer for the Applicant, reviewed some of the proposed project phasing and plans, and the plan not to blast.

Member Carr expressed a desire to include language in the condominium documents not to allow street parking in the cul-de-sac.

Member DaSilva expressed disappointment with the project and felt it would set a precedent.

Chair Ellis invited Mr. Silveira to clarify the various motions required for this application and their voting thresholds.

Mr. Silveira reviewed the four motions required for this application and their respective voting thresholds required for approval.

Chair Ellis invited public comment. There was none.

Chair Ellis noted for the record that Member Shriver was not eligible to vote on this application since it opened before his membership on the Board.

Chair Ellis started with the Definitive Subdivision waivers motion.

Kevin Ellis made a motion, seconded by Rita DaSilva, to GRANT waivers of the following requirements under the Rules and Regulations of the Planning Board, as amended through September 11, 2018:

1. §4.B(3), Table 1 – To allow the roadway to be designed in accordance with some of the requirements of a Limited Residential Street rather than a Minor Street; reduce width from 46' to 40', and reduce centerline radii from 200' to 150'.
2. §4.B(4)(b) – To allow a reduction of the dead-end street right-of-way turnaround radius from 65' and 55', respectively, to 47.5' and 46.5'.
3. §4.B(4)(b) – To allow a minimum island radius of 21' where 25' is required.
4. §4.C(1) – To allow retention and subsurface discharge of stormwater.
5. §4.E – To allow stormwater management structures on the same lot as the development, subsurface system in place of an open basin, and increase the side slope of open basin from 25% to 33%.
6. §5.B4(1) – To allow greater than 50' spacing between street trees around the cul-de-sac.
7. §5.R1(6) – To allow reduction in catch basin diameter from 5' to 4', and varying depths with 4' sumps in place of a total depth of 8'-6".
8. §5.X3 – To allow a reduction in height of street lights from 25' to 9'.
9. §6 (Figure 1) – To allow the street crown pitch on one side where both sides are required.

The motion passed unanimously by roll call vote.

Chair Ellis moved to the Definitive Subdivision Modification motion.

Kevin Ellis made a motion, seconded by Rita DaSilva, to GRANT the application of Bristol Bros. Development Corp. for Modification of a Definitive Subdivision, originally approved May 25, 1965, under the Subdivision Control Law and the Rules and Regulations of the Hingham Planning Board to construct a minor street to serve seven new single-family dwellings and two existing single-family dwellings on 7.48± acres of land at 213 & 215 Cushing Street in Residence District C and the Accord Pond Watershed and Hingham Aquifer Protection District, subject to the following conditions:

1. Conditions to be met Prior to Endorsement:

- a. The Applicant shall modify the approved Definitive Plan to include the following:
 - i. A note referencing all conditions under Sections 2 – 4 of this Approval;
 - ii. A note stating that “All stormwater management basins shall be constructed and stabilized to contain the runoff from a 2-year storm even through and including a 100-year storm event prior to paving and connection of the storm drainage system.”
- b. The Applicant shall establish with the Planning Department a consultant fee account pursuant to MGL c. 44, s. 53G to fund the cost of construction inspections and plan review required by this Decision. The initial deposit to the account shall be \$6,000.00 and replenishment of the account shall occur when the account balance falls below \$1,000.00 after notice from the Planning Department.
- c. The Applicant shall submit a security or combination of securities to guarantee performance of the construction of ways and the installation of municipal services shown on the approved Definitive Plan.
- d. The Applicant shall submit final condominium documents to the Board to demonstrate compliance with Section IV-D of the Zoning By-Law.

2. Conditions to be met Prior to Commencement of Construction:

- a. Results of the hydrant flow test shall be provided to the Community Planning Department and Fire Marshal to verify that 1,000 gallons of water per minute will be provided at the proposed fire hydrant.
- b. Limits of clearing as depicted on the subdivision plan, including the “no clearing zones”, shall be clearly marked in the field with the installation of a staked mulch log, silt fence, or orange construction fence and shall be inspected prior to the start of work.
- c. All permanent bounds and monuments shall be installed as shown on the referenced plan and in conformance with Section 5.C4 of the Planning Board Rules and Regulations.
- d. Prior to the start of construction or site clearing there shall be a preconstruction meeting attended by the Applicant team, representatives of the Planning Department, and the consulting engineer for the Planning Board, to review the installation of the erosion control measures.
- e. The Applicant shall obtain a Street Opening Permit from the DPW for any work in the Town’s layout and the Applicant shall notify the DPW Superintendent prior to any work within the right-of-way.
- f. The Applicant shall file a certified copy of this decision, the endorsed Plan, and the Declaration of Trust in the Registry of Deeds and provide evidence of such recording to the Community Planning Department.

3. Conditions in Effect During Construction:

- a. Parking During Construction. All construction vehicles shall be parked onsite. No construction vehicles shall enter the premises before 7 AM on any given construction day.

- b. Inspections shall be conducted consistent with Section 6 and Form R1 of the Planning Board Rules and Regulations.

4. **General Conditions:**

- a. All work shall be performed in accordance with the approved Plan, this Approval, and in conformity with the Rules and Regulations of the Hingham Planning Board in effect as of the date of the application.
- b. The Applicant shall complete all work shown on the approved Plan, including all ways, drainage facilities, and utilities, within two years of this Approval, unless, at the request of the Applicant, the Planning Board extends the time for performance of such work.
- c. At the completion of work and prior to final release of the final lot or all surety, as applicable, the Applicant shall submit an As-Built plan showing substantial conformance with the approved plans.
- d. The Applicant shall obtain approval from the DPW with respect to the proposed crosswalk in Cushing Street. Said crosswalk shall be installed prior to issuance of a certificate of occupancy.
- e. The roadway, drainage facilities and other utilities within the subdivision road shall remain private and the maintenance, repair and improvement thereof shall be the responsibility of the Applicant and/or the Trust.

The motion passed unanimously by roll call vote.

Chair Ellis moved to the Special Permit A3 Modification finding and motion.

Based on the information submitted and presented during the hearing Chair Ellis made the following proposed finding:

That the proposed modifications do not materially or adversely affect conditions governed by the Special Permit A3 Findings issued March 28, 2022 and set forth in § IV-D of the Zoning By-Law.

Chair Ellis made a motion, seconded by Gary Tondorf-Dick, to GRANT the application of Bristol Bros. Development Corp. for Modification of a Special Permit A3, originally issued March 28, 2022, under § IV-D to construct a Flexible Residential Development consisting of eight single-family dwellings on 7.48± acres of land at 213 & 215 Cushing Street in Residence District C and the Accord Pond Watershed and Hingham Aquifer Protection District, subject to the following conditions:

1. The Applicant shall file a certified copy of this decision in the Registry of Deeds and provide evidence of such recording to the Community Planning Department.
2. Prior to endorsement of the Definitive Plan, the Applicant shall submit final condominium documents to the Board to demonstrate compliance with Section IV-D of the Zoning By-Law.
3. All Open Space shall perpetually be kept in an open or natural state consistent with § IV-D of the Zoning By-Law. Whereas the Condominium Association (“Trust”) shall hold title to the Open Space, said Trust shall grant to the Town an easement to perform maintenance obligations of such Open Space and any accessory facilities if the Trust fails to do so. The Town reserves the right to record a lien against the Dwelling Units for the collection of all costs associated with performing such maintenance obligations as well as the imposition of any applicable fees.
4. Prior to issuance of any Building Permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Unit shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham’s Subsidized Housing Inventory, and provide proof of said procedure to the Community Planning Department. To the extent permitted by applicable law, local preference shall be given in the sale of rental of Low and Moderate Income Housing.
5. All ongoing conditions of the Special Permit A3 issued March 28, 2022 shall remain in full force and effect unless otherwise modified by this decision.

The motion passed unanimously by roll call vote.

Chair Ellis moved to the Site Plan Review findings and motion.

Based on the information submitted and presented during the hearing Chair Ellis made the following proposed findings:

- a. The proposed development, as conditioned by the Approval, will not adversely affect the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally.
- b. The proposed development meets all applicable Design and Performance Standards.

Chair Ellis made a motion, seconded by Rita DaSilva, to GRANT the application of Bristol Bros. Development Corp. for Site Plan Approval under § I-I of the Zoning By-Law, with a waiver of submittal requirements under Sections I-I, 5.1(ii) and (iii) related to a Site Lighting Plan and Transportation Impact Analysis, for a Flexible Residential Development consisting of eight single-family dwellings on 7.48± acres of land at 213 & 215 Cushing Street in Residence District C and the Accord Pond Watershed and Hingham Aquifer Protection District subject to the following conditions:

1. Recording of Decision. The Applicant shall file a certified copy of this decision in the Registry of Deeds and provide evidence of such recording with the application for a building permit.
2. Pre-Construction Meeting. A preconstruction review meeting with inspection of the erosion control installation and marked limits of clearing shall be required before issuance of a Building Permit.
3. No work shall commence without an approved Storm Water Pollution Protection Plan (SWPPP) in place. The SWPPP must be submitted to the Community Planning Department a minimum of three weeks prior to the start of construction for review and is subject to third party peer review pursuant to MGL c. 44, s. 53G, to fund the cost of SWPPP inspections and review. The SWPPP must be phased consistent with any proposed phasing of the project and shall identify the detailed Erosion & Sedimentation Controls during the different phases of the work.
4. Limits of Work; Tree Protection Areas. During clearing and/or construction activities, the marked limit of work shall be maintained until all construction work is completed and the site is cleaned up. All vegetation beyond the limit of work shall be retained in an undisturbed state and no stockpiling of topsoil or storage of fill, materials, or equipment may occur within the protected area. Without limiting the foregoing, Protected Trees to be retained shall be surrounded by temporary protective fencing or other appropriate measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Protective barriers shall be large enough to encompass the Critical Root Zone of all Protected Trees to be preserved. Inspection of the protective barriers shall be required before issuance of a Building Permit.
5. Parking During Construction. All construction vehicles shall be parked onsite. No construction vehicles shall enter the premises before 7 AM on any given construction day.
6. Inspections. Inspections shall be required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control, limits of work, and the approved drainage and stormwater system installed for the project. The Planning Board may require, at the applicant's expense, the establishment of a consultant fee account pursuant to Massachusetts General Laws Chapter 44 Section 53G, to fund the cost of such inspections.
7. As-Built Plan Requirement. Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must demonstrate substantial conformance with the stormwater system design and performance standards of the approved project plans.
8. Maintenance of Protected and Replacement Trees. Each Protected Tree retained, and all new trees planted to mitigate the removal of Protected Trees, shall be maintained in good health for

a period of no less than twenty-four (24) months from the date of final inspection, or issuance of a Certificate of Occupancy, if applicable. Should such tree(s) die or be removed within such twenty-four (24) month period, the owner of the property shall be required to replace such tree with a tree consistent with the requirements within nine (9) months from the death or removal of such Protected Tree or new tree.

The motion passed unanimously by roll call vote.

155 Otis Street Site Plan Review

Chair Ellis noted that the next item on the agenda was an application of Dania and Peter Matheos for Site Plan Review under § I-I of the Zoning By-Law to reconstruct a single-family dwelling and make other improvements including grading, landscaping, and hardscaping at 155 Otis Street in Residence District A.

Al Loomis, engineer for the Applicant, presented the application to the Board.

Chair Ellis invited Board questions/comments.

Member Carr asked about construction vehicles due to the tight location and the amount of pervious pavers proposed.

Mr. Loomis clarified that the site design will require proper measures to be taken to ensure site safety during construction to accommodate the construction vehicles.

Mr. Brennan provided clarification as to how stormwater is mitigated with pervious pavers.

Member DaSilva asked about driveway drainage and Protected Trees.

Mr. Brennan reviewed the drainage system in the driveway and the protective tree fencing.

Chair Ellis asked for clarity regarding drainage with respect to the grass and crushed stone surface, to which Mr. Brennan reviewed how stormwater infiltrates with these types of surfaces.

Member Tondorf-Dick asked about the pervious paver drainage in the winter, frost protection, and sea level rise.

Mr. Brennan explained that there would be very little icing on the pervious pavers.

Mr. Loomis explained how frost protection will be handled and any potential future measures if sea level rise became an issue down the road.

Member Shriver commented on the lower elevation of the proposed house and wished there was more of a connection to the street.

Chair Ellis commented on the landscape plan requirements generally with Site Plan Review applications but appreciated the Applicant's explanation of the future landscaping. He further expressed a desire not to grant waiver of the landscape plan requirement and believed it could be submitted through a condition of approval. Board members were in agreement with this.

Chair Ellis asked Mr. Silveira if this made sense to which Mr. Silveira responded affirmatively.

Based on the information submitted and presented during the hearing Chair Ellis made the following proposed findings:

- a. The proposed development, as conditioned by the Approval, will not adversely affect the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally.
- b. The proposed development meets all applicable Design and Performance Standards.

Chair Ellis made a motion, seconded by Gary Tondorf-Dick, to GRANT the application of Dania and Peter Matheos for Site Plan Approval under § I-I of the Zoning By-Law, with a waiver of submittal requirements under § I-I, 5.I. related to a Site Lighting Plan and Transportation Impact Analysis, to reconstruct a single-family dwelling and make other improvements including grading, landscaping, and hardscaping at 155 Otis Street in Residence District A, subject to the following conditions:

1. Proof of Recording. The Applicant shall file a certified copy of this decision in the Registry of Deeds and provide evidence of such recordings with the application for a building permit.
2. Pre-Construction Meeting. A preconstruction review meeting with inspection of the erosion control installation and marked limits of clearing shall be required before issuance of a Building Permit.
3. Limits of Work; Tree Protection Areas. During clearing and/or construction activities, the marked limit of work shall be maintained until all construction work is completed and the site is cleaned up. All vegetation beyond the limit of work shall be retained in an undisturbed state and no stockpiling of topsoil or storage of fill, materials, or equipment may occur within the protected area. Without limiting the foregoing, Protected Trees to be retained shall be surrounded by temporary protective fencing or other appropriate measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Protective barriers shall be large enough to encompass the Critical Root Zone of all Protected Trees to be preserved. Inspection of the protective barriers shall be required before issuance of a Building Permit.
4. Construction Vehicles. All construction vehicles shall be parked onsite. No construction vehicles shall enter the premises before 7 AM on any given construction day.
5. Inspections. Inspections shall be required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control, limits of work, and the approved drainage and stormwater system installed for the project. The Planning Board may require, at the applicant's expense, the establishment of a consultant fee account pursuant to Massachusetts General Laws Chapter 44 Section 53G, to fund the cost of such inspections.
6. Plan Revisions. Prior to a certificate of occupancy, the Applicant shall submit a Landscape Plan to the Community Planning Department to demonstrate native and adequate plantings proposed for the site.
7. As-Built Plan Requirement. Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must demonstrate substantial conformance with the stormwater system design and performance standards of the approved project plans.
8. Maintenance of Protected and Replacement Trees. Each Protected Tree retained, and all new trees planted to mitigate the removal of Protected Tree(s), shall be maintained in good health for a period of no less than twenty-four (24) months from the date of final inspection, or issuance of a Certificate of Occupancy, if applicable. Should such tree(s) die or be removed within such twenty-four (24) month period, the owner of the property shall be required to replace such tree with a tree consistent with the requirements within nine (9) months from the death or removal of such Protected Tree or new tree.

The motion passed unanimously by roll call vote.

Minutes

Kevin Ellis made a motion, seconded by Gordon Carr, to approve the December 5, 2022, May 15, 2023, June 5, 2023, and June 26, 2023 meeting minutes of the Planning Board.

The motion passed unanimously by roll call vote.

Other Business

Emily Wentworth reviewed scheduling over the next month.

Chair Ellis made a motion to adjourn at 8:25 PM, seconded by Rita DaSilva.

The motion passed unanimously by roll call vote.

Meeting Materials:

Agenda Summary, dated July 7, 2023

9 Wompatuck Road

Application Cover Letter, received July 5, 2023

Waiver Request, dated July 5, 2023

Site Plan, revised June 30, 2023

Approved Site Plan, dated April 3, 2023

213 & 215 Cushing Street

Application for a Definitive FRD, dated November 28, 2022

Definitive FRD Plan Set, dated November 21, 2022

Stormwater Report, dated November 21, 2022

Fire Marshal Comments, dated December 28, 2022

Board of Health Comments, dated January 4, 2023

Continuance Request of FRD and SPR Application, dated January 11, 2023

Continuance Request of Subdivision Application, dated January 11, 2023

Continuance and Extension, dated January 24, 2023

Resubmission Cover Letter, dated February 10, 2023

Response to Peer Review Comments, dated February 10, 2023

Stormwater Report, revised February 9, 2023

Plan Set, revised February 9, 2023

Continuation and Extension Request, dated February 28, 2023

Revised Submission Cover Letter, dated March 27, 2023

Response to Comments, dated March 24, 2023

Explanation of Subdivision History and Waiver Requests, dated March 27, 2023

Plan Set, revised March 27, 2023

Elevation Plan, dated June 24, 2022

Stormwater Report, revised March 27, 2023

Letter of Support from A. and R. Gomez, dated March 31, 2023

Continuance and Extension Request, dated April 10, 2023

Response to Peer Review and Staff Comments, dated April 24, 2023

Plan Set, revised April 24, 2023

Sight Distance Exhibit, dated April 24, 2023

Building Elevation Exhibit, dated June 24, 2022

Grade Plane Exhibit, dated April 24, 2023

Draft of Provisions for Master Documents, dated May 1, 2023

Continuance and Extension, dated May 2, 2023

Board of Health Comments, revised May 12, 2023

Explanation of Revisions, dated May 24, 2023

Site Plans, revised May 23, 2023

Continuance and Extension Request, dated June 22, 2023

Draft Master Deed

Draft Declaration of Trust

Peer Review Report from J. Dirk, dated December 19, 2022

Peer Review Report from P. Brennan, dated December 22, 2022

Peer Review Report from P. Brennan, dated February 14, 2023

Peer Review Report from J. Dirk, dated February 14, 2023

Peer Review Report from P. Brennan, dated April 3, 2023

Peer Review Report from J. Dirk, dated April 6, 2023

Peer Review Note from P. Brennan, dated April 25, 2023

Peer Review Report from J. Dirk, dated April 26, 2023

Preliminary FRD - Special Permit A3 Decision, dated March 28, 2022

Preliminary FRD Plan, revised through February 24, 2022

155 Otis Street

Site Plan Review Application, received May 10, 2023

Site Plans, dated April 25, 2023
Architectural Plans, dated December 9, 2022
Stormwater Report, dated April 25, 2022
Request to Continue, dated June 21, 2023
Response to Peer Review Comments, dated June 30, 2023
Site Plans, revised June 30, 2023
Stormwater Report, revised June 30, 2023
Waiver Requests, dated July 6, 2023
Site Plans, revised July 6, 2023
P. Brennan Peer Review Report, dated May 30, 2023
P. Brennan Peer Review Report, dated July 6, 2023