

TOWN OF BELMONT

PLANNING BOARD

MEETING MINUTES

September 15, 2020

**RECEIVED
TOWN CLERK
BELMONT, MA**

DATE: October 22, 2020

TIME: 2:59 PM

Present: Steve Pinkerton, Chair; Thayer Donham; Ed Starzec; Renee Guo; Matt Lowrie;
Karl Haglund

Staff: Jeffrey Wheeler, Senior Planner

1. Meeting Called to Order at 7:00 PM

2. Organize the Board

a. Nominate and Vote for Chair

MOTION to nominate Mr. Pinkerton as Chair was made by Mr. Lowrie and seconded by Ms. Donham. Motion passed.

b. Nominate and Vote for Vice Chair

The PB discussed and decided that a Vice Chair was not necessary at this time.

c. Nominate and Appoint to other Assigned Committees

Capital Budget Committee:

Mr. Pinkerton noted that there was a statutory requirement to appoint a PB member to the Capital Budget Committee but all agreed that the PB's representation would be better on the Long-Term Capital Budget Committee. Mr. Pinkerton noted that this change would be taken up with the Select Board at a later date.

Other Committee Appointments:

Community Preservation Committee - Stephen Pinkerton

Housing Trust – Thayer Donham

Master Plan Refresh Committee – Renee Guo

Economic Development Committee – Ed Starzec

MOTION to approve appointees was made by Mr. Pinkerton and seconded by Ms. Donham. Motion passed.

3. Continue Public Hearing

[Ms. Donham recused herself from the meeting.]

a. Lot 1 Clark Lane – Design and Site Plan Review: Construct Single-Family Home in General Residence Zoning District

Mr. Lowrie presented a PowerPoint presentation to help the PB better understand the issues facing the application. He noted that Design Site Plan Review (DSPR) required compliance with the Zoning By-Law, including lot frontage. Mr. Rhodin was claiming frontage, though the abutters say he does not have it. Mr. Lowrie also noted that there was an application in 2014 to build on a neighboring lot and the PB determined that there was not appropriate frontage on Thomas Street for those lots and the Applicant withdrew their application. Mr. Lowrie went into detail of the DSPR process. He stated that the letter written by Mr. Clancy, Director of Community Development, was only advisory and didn't actually confirm frontage for this proposal. He noted that Mr. Clancy looked at the plan and said that it looked like there was frontage, however, it was not attached to a building permit application and that input from abutters was only triggered when a building permit was denied, thus the application before the PB now. Mr. Lowrie continued that the first thing that the PB would have to decide was whether the proposal complies with Belmont's Zoning By-Law and then determine whether there was frontage or not (as this was required under the Zoning By-Law). Mr. Lowrie reviewed the definition of what a street could be and the definition of a "private way". He reviewed the Zoning By-Law definition for "frontage" as well. He noted that Belmont was not subscribed to the Massachusetts Subdivision Control Law and because of this, it was not clear if Clark Lane was a private way. Mr. Lowrie noted that the question was "Does Clark Lane meet the definition in the Zoning By-Law for frontage for the new proposed lot?" Mr. Lowrie reviewed the history of previous materials submitted. He reviewed the definitions of private way, right of access, deeded rights and prescriptive easement. He asked the question, does the PB have the authority to recognize the Rhodin's claim that they have been using it for twenty years and therefore have a prescriptive easement. Mr. Lowrie noted that the PB does not have the authority to conduct this inquiry, this is something for a court of law. He continued that it appears that this was not a public way that the Town Clerk can certify and as a result, the Applicants would need to satisfy the Board of Survey. He added that the definition of shared driveway requires a recorded easement and that the D'Giovanni precedent was for a subdivision on the Pleasant Street side of Clark Lane. Mr. Lowrie laid out the options for the Applicant: continue the case to allow time for the Applicants to figure out what to do, withdrawal the application and petition the court and reach an agreement that would meet the Zoning By-Law requirements, move forward with the application and prove that the frontage exists, or move forward with the current application and appeal it if it is denied then appeal it.

Mr. Haglund noted that the 2014 application reflected some of the confusion and lack of clarity and documentation to support moving forward with the application.

Mr. Rhodin, Applicant, noted that he would like to ask for a continuation so that he can have

a chance to send more information. Mr. Lowrie noted that they need to provide something that was recorded that shows a private way with access, perhaps a copy of the land court petition and the decision might help. He added that the PB would need something that was recorded or a Board of Survey Approval.

Cliff Rober, Land Surveyor on behalf of the Applicant, reviewed plan number several plans that were recorded by the Registry of Deeds and that show Clark Lane partially bisecting Mr. Rhodin's lot. He argued the D'Giovanni land court plan, which shows a portion of the Applicant's property, was a subdivision plan approved by the land court. Ms. Guo noted, however, that the plan stated that the "abutters were not adjudicated".

Mr. Lowrie stated that the Zoning By-Law appears to want clarity on this issue and the clarity was to be provided by the Board of Survey, the Town Clerk or if it could be grandfathered in by a recorded subdivision plan. He added that the Applicant would be welcome to provide a presentation from his attorney. He reiterated that the PB would need to see appropriate documentation.

MOTION to continue to October 20, 2020 was made by Mr. Lowrie and seconded by Mr. Haglund. Motion passed.

4. Prepare for Town Meeting

[Ms. Donham returned to the meeting at 8:00 PM]

- a. McGaw Amendment (Article 8) – Monday, September 21, 2020

Mr. Starzec will read the motion at Town Meeting.

- b. McLean Zone 3 Amendment (Article 9) – Wednesday, September 23, 2020

Mr. Pinkerton will read the motion and present Article 9 at Town Meeting

5. Updates on Cases and Planning Board Projects, and Committee Reports

Mr. Wheeler noted that there will be no formal site visit for 30 Horne Road.

Ms. Guo noted that MAPC is struggling with their funding and chances are that the Town will not get any funding for the master plan refresh.

6. Minutes Review and Approval

Meeting Minutes were to be reviewed at the next meeting.

7. Adjourn 8:15 PM