

Town of Franklin



Planning Board

**December 5, 2016
Meeting Minutes**

Chairman Anthony Padula called the above-captioned meeting to order this date at 7:00 PM. Members in attendance: Joseph Halligan, John Carroll, William David, Gregory Rondeau, Alternate Rick Power. Members absent: None. Also present: Michael Maglio, Town Engineer; Amy Love, Planner; Greg Lucas, BETA Group.

7:00 PM Commencement/General Business (items taken out of order from agenda)

Chairman Padula announced the meeting would be video and audio recorded for the public's information.

A. Form H: 176 Grove Street

Ms. Love stated they are going to wait for further improvements on the site and have the applicant contact the department when it has been improved to the point that they can reach the Form H.

Chairman Padula stated they had visited the site the other day and there were violations, items that were not done, and some hazardous waste stored in the area.

B. Meeting Minutes: November 7, 2016 and November 21, 2016

Motion to Approve the November 7, 2016 meeting minutes. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

Motion to Approve the November 21, 2016 meeting minutes. Rondeau. Second: Carroll. Vote: 5-0-0 (5-Yes; 0-No).

Chairman Padula called a three-minute recess.

7:05 PM **PUBLIC HEARING** – Initial
11 White Dove Road
Definitive Subdivision Modification

Documents presented to the Planning Board:

- 1. Letter dated November 23, 2016 from Michael Maglio, Town Engineer, to Franklin Planning Board*
- 2. Partridge Run Estates, Franklin, MA, Property Line Plan & Lot Layout, Grading Plan, and Roadway Plan & Profile Plan Sheets by GCG Associates, Inc. dated February 1, 1995*
- 3. Partridge Run Estates, Subdivision Modification Plan, Franklin, MA, Prepared for Marinella Construction, Inc. by Knapik Consulting, Inc. dated November 1, 2016*
- 4. Memorandum dated November 30, 2016 from DPCD to Franklin Planning Board*
- 5. Letter dated November 14, 2016 from W. Robert Knapik, Knapik Consulting, Inc., to Franklin Planning Board*

DRAFT FOR REVIEW

6. *Form C-1, Application for Approval of Modification Plan with Received by Planning date November 14, 2016*
7. *Form R, Franklin Planning Board Subdivision Waiver Request with Received by Planning date November 14, 2016*
8. *Certificate of Ownership with Received by Planning date November 14, 2016*
9. *Town of Franklin Board of Assessors Abutters List Request Form with Received by Planning date November 14, 2016*
10. *Abutters List Report dated November 14, 2016*
11. *Franklin Planning Board Public Hearing Notice with Received by Town Clerk date November 15, 2016*

Motion to Waive the reading. Carroll. Second: Rondeau. Vote: 5-0-0 (5-Yes; 0-No).

Mr. Robert Knapik of Knapik Consulting, Inc. on behalf of the applicant addressed the Planning Board. He stated that Attorney Joseph Antonellis would be arriving soon. He provided an overview of the application to modify a previously approved definitive plan in an uncommon situation. Partridge Run Estates was a subdivision approved by the Planning Board in 1995. Thereafter the applicant constructed the roadway, infrastructure, and houses in the subdivision and sold them; the subdivision is completely constructed. His clients, Vincent and Bianca Wilfork, purchased the property as shown on Lot 4 of the subdivision plan, known as 11 White Dove Road, in 2004. They were the third owners of the property. In 2015 Mr. Wilfork sought to sell 11 White Dove Road. The attorney for the buyer noted that the portion of White Dove Road on which Lot 4 fronts was not constructed and is shown as an easement on the approved subdivision plans. He as an engineer and Mr. Antonellis as an attorney were asked to seek an appropriate solution. The proposal is for the subdivision to be modified to allow the section of White Dove Road that was never constructed to be deemed a roadway, but at the same time to waive the requirement that the approximately 200 ft. of White Dove Road on which Lot 4 fronts, that a full subdivision roadway be constructed. The justification for the waiver is that the dwelling located on Lot 4 does have actual access to the constructed portion of White Dove Road via a driveway. Since the date of the subdivision, the Town has acquired the property to the southwest of Lot 4. So, as part of the solution the applicant proposes that there still be a pathway constructed of gravel and wide enough for a vehicle to drive upon if necessary to provide access to the Town for their adjoining land. He noted the helpful input from town staff with the plan before the Planning Board. Mr. Knapik stated he represents both Mr. Marinella and Mr. Wilfork; they both have common interest in getting this done. He stated Mr. Wilfork was the original applicant, but then it was thought that as Mr. Marinella was the original applicant in the subdivision, it would be more appropriate for him to be the applicant for this modification.

Mr. Maglio stated the subdivision was completed in late 1990s. The Planning Board released the bond and recommended acceptance of the roadways in 2002; but for whatever reason, the Town never accepted the roadways. It appears the section of roadway that fronts Lot 4 was never intended to be constructed per the original design plans.

Mr. Cerel, Town Attorney, stated the original lot was conveyed with a driveway easement until such time as the road was fully constructed. It was discovered that there seems to be a deficiency due to a lack of frontage. The driveway cannot substitute for frontage. The town administrator was consulted as it does provide access to the abutting town land, although not the sole access. The town would be satisfied with some gravel-based roadway construction to get emergency or maintenance vehicles in as necessary.

Chairman Padula stated he did not understand how the building inspector issued a building permit when the house had no frontage. Someone acted out of the realm and should have never issued a permit.

Mr. Cerel stated in hindsight it probably should not have been issued.

DRAFT FOR REVIEW

Chairman Padula questioned that if the subdivider did not build the road, but he sold the house, shouldn't he donate whatever he saved from building the road to the town.

Mr. Maglio stated on the original subdivision plans that section of roadway was not called out to be built.

Mr. Cerel stated the owner has an easement to get out to the paved road. They are just trying to remedy the situation and make it a win for all parties if possible.

Chairman Padula asked if the Town really needs this for access to their property.

Mr. Jeff Nutting, Town Administrator, stated they want to have ownership of that to get into the land the town owns. With what is proposed, the person would get the frontage they need and the town would get access to their land as they need to have a firetruck or vehicle get in there.

Mr. Halligan stated it appears it was brought up by a financial institution for a loan on this. There is a way around this such as if someone paid cash for the house. He would have no problem approving this as a roadway with an easement to the town.

Mr. Nutting stated the mistake that was made 20 years ago cannot be fixed other than by the proposal they worked out which seems fair.

Mr. Cerel stated the town would own the right-of-way. Once this issue is resolved the final acceptance plan would be prepared and the town will accept the roads in the rest of the subdivision.

Mr. Cliff Trautman, 11 Mockingbird Drive, abutter across the street abutter, stated he is concerned that all the other roads in the subdivision are accepted by the town and all maintenance is turned over to the town. He wondered why there are no as-builts on file for the entire project and asked how the whole project got approved without all the rules and regulations being followed.

Mr. Rondeau asked if the Planning Board would be setting precedent if another one like this were to come through. He recommended putting down pavement rather than gravel as gravel will erode over time.

Mr. Cerel stated there would be no precedent as when waivers are granted it is fact specific to the particular case. It is a maintenance issue once the town accepts it as for instance additional gravel may be needed over time.

Mr. Knapik stated it has been the assumption that they will put the path/roadway in. He noted that he and Mr. Maglio have discussed pavement in a technical review meeting as it would be a better wearing surface. But, it was decided that gravel with a compacted base would be better. The installation of pavement would require more clearing on the shoulders; this path is not to be intrusive as it is rather in the front yard of the Wilfork property.

Mr. Maglio stated he believes the detail in the proposal has crushed stone on top of the base.

Mr. Nutting stated the town needs more than 8 ft. for a fire truck; he would request 12 ft. wide gravel.

Chairman Padula reviewed the plans with Mr. Knapik. He stated the town wants a 12-ft. path and he does not want the owner's driveway disturbed. He requested applicant show modified plan at next Planning Board meeting and provide guarantee this work will be done.

Mr. Cerel stated this is the only thing holding up the entire subdivision's acceptance and the Wilforks are very anxious to sell the property.

DRAFT FOR REVIEW

Mr. Knapik confirmed he needed to increase the width from 8 ft. to 12 ft. on the plan without disturbing the driveway and provide some form of surety of work such as a bond. He noted the gravel access road would still be at the edge of the driveway. He requested to consult with Attorney Antonellis when he arrives and reconvene to discuss the surety at the conclusion of the 7:10 PM public hearing.

Chairman Padula agreed.

Note: After the 7:10 PM public hearing ended, further discussion regarding this public hearing commenced at 8:40 PM.

Mr. Cerel stated Attorney Antonellis, the Wilforks attorney, had arrived and they had conversed. Mr. Cerel stated his recommendation is the plan will be modified as proposed and they will be back for a decision at a later date. At that time, as part of the Planning Board decision, a condition should be imposed that the Wilfork house will not be conveyed until such time as the road improvements, such as the Planning Board votes, are made. An alternative is they could have the option to post a surety. He would be satisfied with a covenant on record at the registry.

Mr. Joseph Antonellis stated he is fine with the Town Council's recommendation. He would like to have the option of adequate surety be put in with an estimate of the work. He noted this has been a difficult situation for the Wilforks.

Motion to Continue the public hearing for 11 White Dove Road to December 19, 2016 at 7:40 PM. Carroll. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

7:10 PM **PUBLIC HEARING** – Continued
 0 Pond Street (former wastewater sewer beds land)
 (1) Special Permit & Site Plan

Documents presented to the Planning Board:

1. Letter dated December 12, 2016 from John Kucich of Bohler Engineering to Franklin
2. Memorandum dated November 30, 2016 from DPCD to Franklin Planning Board
3. Memorandum dated November 16, 2016 from Mark Cerel, Town Attorney, to Franklin Planning Board
4. Memorandum dated November 11, 2016 from G.B. McCarraher, Fire Chief, to DPCD
5. Memorandum dated November 15, 2016 from George Russell, Conservation Agent, to Franklin Planning Board
6. Letter dated November 15, 2016 from John Kucich of Bohler Engineering to Franklin Planning Board
7. Letter dated November 2, 2016 from Michael Maglio, Town Engineer, to Franklin Planning Board
8. Site Development Plans for Baystone Franklin, LLC, Prepared by Bohler Engineering, Overall Site Plan pages 4, 5 & 6 of 23, and Open Space Exhibit Sheet 1, with Received by Planning date November 16, 2016
9. Memorandum dated November 4, 2016 from DPCD to Franklin Planning Board
10. Letter dated November 1, 2016 from Greg Lucas, BETA Engineering, to Franklin Planning Board
11. Site Development Plans for Proposed Brookview for Baystone Franklin, LLC, Prepared by Bohler Engineering, with Received by Planning date October 7, 2016
12. Scale drawing of housing units for Pond Street, Franklin, MA, no date, no author.
13. Memorandum in Support of Application for Special Permit, Pond Street, Franklin, MA, from Richard Cornetta, Attorney, to Franklin Planning Board, dated October 6, 2016

DRAFT FOR REVIEW

14. *Application for Approval of a Site Plan and Special Permit(s) from Baystone Franklin LLC, applicant, with Received by Planning date October 7, 2016*
15. *Form P, Application for Approval of a Site Plan from Baystone Franklin LLC, applicant, with Received by Planning date October 7, 2016*
16. *Town of Franklin Board of Assessors Abutters List Request Form with Received by Planning date October 7, 2016*
17. *Abutters List Report dated September 28, 2016*
18. *Franklin Planning Board Public Hearing Notice with Received by Town Clerk date October 18, 2016*

Mr. Richard Cornetta, Attorney, on behalf of the applicant, Baystone Franklin, LLC, addressed the Commission. He noted this is a continuation of a previous public hearing last month where several concerns were raised by Planning Board members. The applicant had a meeting with the fire chief and town engineer and discussed the public safety issue regarding the roadway width. Their engineers revised the plans to accommodate the fire chief's concerns. A follow-up letter from the fire chief has been received; with the expanded roadway, the fire chief is satisfied regarding emergency access. Mr. Cornetta noted the fire chief also withdrew his concerns regarding the fourplexes. He said tonight's presentation will include a walk-through of the changes and presentation by Ron Muller, traffic engineer. Mr. Cornetta then discussed road widths within Franklin and if there was a standard applied throughout the town. He stated that he looked around town at seven various and different multifamily residences built from mid-1980s to present. He measured and looked at pavement width; not a scientific engineering study. He concluded that there does not seem to be standard; it goes from as little as 19 ft. to 26 ft. The project at Spruce Pond seems to be similar to what the applicant is proposing; those roadways are 23 ft. and no sidewalk. Hawthorne Village was a similar project with 100 units, 24 ft. width roads, bituminous pavement for the curbing, and no sidewalk. He stated the vertical granite and the extra wide roadway has a commercial feel to it. He provided a handout of his findings to the Planning Board.

Mr. John Kucich, engineer of Bohler Engineering, reviewed changes made to the plans. He stated they originally proposed 22 ft. road width and widened it to 24 ft. They continue to hold 4 ft. grass strip and 4 ft. sidewalks. Each unit has two car garage and two cars in the driveway for parking. But from comments, they wanted to provide additional parking. They have proposed 32 additional stalls throughout development in different areas. They also clarified snow storage areas on plan. They looked closely at feasibility of constructing the emergency entrance as an access entrance. He said Mr. Muller will speak to site distances, clearance, and how the driveway operates.

Mr. Ron Muller, registered professional traffic engineer and principal of Ron Muller & Associates, stated he prepared the traffic impact and access study for this project which was reviewed by BETA Group. BETA concurred with the results of the study; they had three comments which have been responded to. Regarding site access and design of internal roadways, their driveway is 165 ft. from the daycare driveway which exceeds state standards for driveway separation. Regarding possibly making the emergency access driveway a full access driveway, they have several issues. The construction impact and the grade being over 10% is not a good point of access for the site; based on traffic study 85% of the traffic wants to head south toward Rt. 140 and Rt. 495. Even if full access driveway, it would be minimally used; the main driveway access has more than adequate capacity. He stated he feels comfortable with one main access and having an emergency access. They have more than 500 ft. site distance in both directions from main access; the minimum is 390 ft. He recommended the roadway be 22 ft. which is appropriate for a residential street. The wider a roadway is, the more likely it is to increase the traffic speed. He recommended a sidewalk as shown on the plans.

Mr. Halligan asked how can a garbage truck and a school bus get by on a 22-ft. road.

DRAFT FOR REVIEW

Mr. Nutting stated a school bus will not be going into the property; the students will walk out to the corner. He stated a fire truck is long and heavy and he thinks a 24-ft. road accommodates that. Normal delivery trucks do not exceed the ladder truck in length and weight, that is why the fire chief was comfortable with the 24 ft. He stated if the developer is happy with the 24 ft., we as a community are happy with the 24 ft. from a public safety perspective.

Chairman Padula stated the fire chief does not dictate how wide roads are, he just suggests based on the fire trucks.

Mr. Knapik, in response to a question regarding children in the development, stated there are no plans to provide a shelter area for children waiting for a bus. They may be able to add a few more stalls for parents waiting to drop off children in the front area, but they tried not to dip into the 150-ft. setback from Pond Street which is where they started the parking.

Mr. Nutting stated he did not see it as an issue to add a few more spaces that were out of the 150-ft. setback area.

Mr. Knapik stated that relative to street lighting they have not made any changes. They are treating this as a residential area; lights are just proposed at the intersection points.

Mr. Cornetta stated they have suspended their movement through the Conservation Commission hoping to reach some kind of understanding with the Planning Board so that they will now know which direction to go in for further addressing BETAs comments and moving forward with the conservation process.

Ms. Love stated the applicant submitted the conceptual plans and there are no new comments from the department until the Planning Board makes decisions about these conceptual plans.

Mr. Cerel referred to his memorandum; he stated it was self-explanatory and he would answer any questions. He noted the Planning Board is not entitled to base a decision on their own personal opinions. For instance, the fire chief, town engineer, and consulting engineer are those who can be relied on for their expertise and technical background. The Planning Board must rely on competent information and testimony and have a sound basis for the positions they take. He stated the subdivision rules and regulations do not set the standard for the town. They are supposed to reflect what the town requires of itself.

Chairman Padula stated it is from the subdivision regulations which the Planning Board implements to all projects. The subdivision regulations are referenced for infrastructure. They are all bylaws which the Planning Board is sworn to uphold. The Planning Board references those bylaws, especially for special permits such as this, for public safety and traffic.

Mr. Cerel stated the Planning Board cannot base decisions on own judgement and experience; must rely on expertise. He stated people with expertise all told the Planning Board what is being proposed is reasonable and there does not need to be more than that. If it were to go to court a judge could overrule for abuse of discretion.

Chairman Padula asked what are the fire chief's engineering qualifications.

Mr. Cerel stated the fire chief knows what is necessary for public safety and emergency access.

Chairman Padula stated the fire chief knows what is necessary for his own emergency vehicles, not for public access or anything else. He noted that there are many senior villages in town with upright granite, straight granite, concrete sidewalks. He stated that Mr. Cerel is telling the Planning Board that they must

DRAFT FOR REVIEW

rely on what the town engineer or fire chief is telling the Planning Board to use for infrastructure. He asked, then why is this before the Planning Board?

Mr. Cerel stated that with respect to this hearing the Planning Board is operating under the Zoning Bylaw. The Zoning Bylaw is subject to a long line of interpretive case law as to what authority is when you are a special permit granting authority.

Mr. Cerel and Chairman Padula continued to discuss the authority and criteria under which the Planning Board is operating, the required expertise and peer review needed, and what is appropriate for this particular project.

Mr. Cerel stated that at the expense of the developer, the Planning Board is entitled to retain such consultants that they may need. For instance, independent professionals for traffic, infrastructure, and drainage could be hired as long as it has not been done by BETA and is outside of BETA's expertise; cannot hire duplicates.

Chairman Padula stated this is the way he would like to go.

Mr. Nutting asked what was in dispute.

Chairman Padula stated his issues include the curbing as he does not think it works. Asphalt curbing tears up when it is plowed. Asphalt sidewalks are not in any of the town's bylaws. The minimum width of a minor roadway serving seven homes is 26 ft.

Chairman Padula and Mr. Nutting discussed bituminous and concrete sidewalks throughout town.

Mr. Halligan stated he would like to see the project get developed. It will never be accepted by the town. He does not see the 24 ft. being an issue. Is there any leeway through the Chair; is the applicant willing to work anything out?

Mr. Roy MacDowell, Principal of Baystone Franklin, stated that he does not want to get into a disagreeable situation with the Planning Board and the town. He would like to have a good working relationship. He stated if we can agree on the width of 24 ft., we will work with you on the sidewalks and the type of curbing. In response to Chairman Padula's question, he stated the road was still sloped to one side with drainage on one side.

Mr. Maglio stated that as a whole what they have proposed appears to work. He had some comments on their original design regarding catch basins. Once they have direction with the pavement and sidewalk areas, they will go back and address some of the drainage questions/comments.

Chairman Padula stated that both subdivision and zoning regulations state that drainage will be on both sides of the street and no double-grate catch basins.

Mr. Halligan stated that as this is a special permit, the Planning Board can go by the experts to make a decision.

Mr. MacDowell proposed to Chairman Padula that if he can live with the 24-ft. road width and the drainage, they will tell their engineers to go to the next step and agree to increase the parking at the entry, have them redesign the drainage based on the width of the road, and come back to the Planning Board with comments after discussions with their engineers, town engineer, and BETA group on the type of curbing and sidewalk.

DRAFT FOR REVIEW

Planning Board members informally stated they were good with that and would like to see what the drainage comes back as; it is the width of the road that is critical.

Mr. Greg Lucas of BETA Group stated they did not do a separate traffic study, but thoroughly reviewed the data analysis provided. The study supports that the town and state will continue to pursue improvements there.

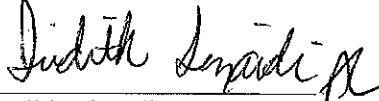
Mr. Nutting stated the state is aware of the traffic issues at the intersection, but have not come back with a solution yet.

Chairman Padula stated his concern is curbing and sidewalk material. He also noted that usually in the town the drainage is on both sides.

Motion to Continue the public hearing for 0 Pond Street to December 19, 2016 at 7:35 PM. Halligan. Second: Carroll. Vote: 5-0-0 (5-Yes; 0-No).

Motion to Adjourn. Halligan. Second: David. Vote: 5-0-0 (5-Yes; 0-No). Meeting adjourned at 8:43 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judith Lizardi", with a stylized flourish at the end.

Judith Lizardi
Recording Secretary