

(Town of Franklin



Planning Board

**September 21, 2020
Meeting Minutes**

Chair Anthony Padula called the above-captioned **Remote Access Virtual Zoom Meeting** to order this date at 7:00 PM. Members in attendance: Joseph Halligan, William David, Gregory Rondeau, Rick Power, Associate member Jennifer Williams. Members absent: None. Also present: Amy Love, Planner; Michael Maglio, Town Engineer;

*As stated on the agenda, due to the growing concerns regarding the COVID-19 virus, the Planning Board will conduct a **Remote Access Virtual Zoom Meeting**. The Massachusetts State of Emergency and the associated state legislation allows towns to hold remote access virtual meetings during the COVID-19 pandemic crisis. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by using the Zoom link also provided on the agenda.*

7:00 PM Commencement/General Business

Chair Padula read aloud the Zoom platform call-in phone number and the Zoom link which were also provided on the meeting agenda.

A. Endorsement: Amego –Washington Street Site Plan

Ms. Love stated the Planning Board approved the Site Plan on June 17, 2019. The applicant has referenced the Certificate of Vote and Conditions of Approval on the front page of the plans. The applicant has included color renderings that were recommended to the Planning Board by Design Review Commission.

Motion to Endorse Amego –Washington Street Site Plan. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

B. Bond Release: Sandy Knoll Estates

Ms. Love stated the Planning Board voted at the June 8, 2020, meeting to release all bond monies except \$10,000, to be retained until the plans are filed at the Registry of Deeds; plans are filed after the Town Counsel accepts the roadway. The Planning Board requested this be reviewed in three months. Due to COVID and the Registry of Deeds being closed, there has been no progress on moving forward with the road acceptance at the Town Council level. The remaining bond of \$10,000 is for the As-Built costs for the plans as follows: a. Silver Fox 0+00-0+12 Bond Amount \$136,673 - \$4,000 was to be held for As-Built Completion; b. Cotton Tail 5+00-10+50 Bond Amount \$24,050 - \$2,000 was to be held for As-Built Completion; c. Blueberry Land 13+00-20+50 Bond Amount \$22,860 – No As-Built line item; and d. Cotton Tail 0+00-5+00 Bond Amount \$10,000 - \$4,000 was to be held for As-Built Completion. She stated that DPCD recommends holding \$10,000 until streets are accepted by Town Counsel and recorded at the Registry of Deeds.

Mr. Maglio confirmed the contractor has turned in the As-Built, and it looks like everything is in order. Mr. Cereel has the plans currently and is in process of the recording. Chair Padula stated that at this point, it is the Town that is holding up the process; the applicant has done all they were required to do. He stated that the

Planning Board cannot keep holding the money just because the Registry of Deeds is not open. Mr. Halligan stated that submitting it to Land Court does not guarantee it is going to be accepted by Land Court; the engineers may need to do additional work. Chair Padula asked how long can the \$10,000 be held. Mr. Halligan questioned if changes are required by the Land Court, who is going to do the changes if there is no money left. He stated that very rarely does Land Court accept on the first round.

Mr. Maglio stated there are two sets of plans in place. The As-Built plans which he is satisfied with, and the Street Acceptance plans which go to Land Court to get recorded. If changes are required, there would need to be money to pay for the changes to be made. Chair Padula stated the Planning Board does not hold bonds for Land Court; the Planning Board holds bonds for materials and As-Built. Mr. Halligan stated he would be willing to reduce the bond to \$5,000 to hold some money in case it gets kicked back from Land Court.

Chair Padula asked how many subdividers the Planning Board is holding money from because the Town has not accepted the streets and they are waiting to be recorded by the Registry. Ms. Love reviewed other applicants for which bond money is being held. She noted that the Town Attorney is still in the process of reviewing the deed; therefore, it has not yet been submitted to Land Court.

Chair Padula asked if there is a problem because the applicant is turning over land to the Town for an easement. Mr. Maglio stated he does not think so. He reiterated that everything from his standpoint seems okay and he forwarded it to Mr. Cerel to review; he has not heard anything from Mr. Cerel. He noted that Mr. Cerel would bring it to Land Court to get recorded. Mr. Halligan asked what is holding up the process. Chair Padula stated this seems to be an ongoing thing as is the same as three months ago. It is the Town Attorney who is holding this up. He asked when this would be resolved. Mr. Maglio stated it is in the Town Attorney's hands. Ms. Love stated she can ask for another update from Mr. Cerel. Chair Padula stated he would like an answer at the next meeting. Mr. Rondeau asked that Mr. Cerel attend the Zoom meeting to explain where he stands with this. Ms. Love stated she could check with Mr. Cerel for his availability for the next meeting on September 28, 2020.

C. 81-P ANR: 300 West Central Street

Ms. Love stated the applicant has submitted a Form A application for 81-P Plan review to accompany the plan titled "Plan of Land, 300 West Central Street, Franklin, Massachusetts" dated September 2, 2020. She confirmed she incorrectly wrote in her memo dated September 16, 2020, that the purpose of the plan is to move existing lot lines and create two conforming lots; it should have been written as one conforming lot and one non-conforming lot. She stated that although it is incorrect in her memo, it is correct on the plans submitted with the application. The application depicts a location within the General Residential V Zoning District; the proposed lot shown conforms to lot requirements associated with this zoning district. In response to Planning Board members' questions, Ms. Love stated one lot is non-conforming, the other is the existing house lot which conforms.

Chair Padula stated the person who owns the subdivision is the applicant, but not the owner. Ms. Love explained the application states the applicant is Mr. Joel D'Errico, but the owner is Foley Family Trust who signed off on the application. She confirmed the back lot is going to be part of the subdivision. She stated the four-lot subdivision that the Planning Board approved off West Central Street is different. Planning Board members discussed that this is not an ANR because it does not have frontage on the street; a non-conforming lot is being created.

Ms. Amada Cavaliere, Guerriere & Halnon, Inc., on behalf of the applicant and owner, stated the owner is aware the back lot is non-buildable; this Lot A is unrelated to the subdivision. She stated the application is to define the lot lines for Lot A. She noted they are not subdividing the land; they are changing the lot lines. Chair Padula questioned having two separate lots with two ANRs.

Mr. Maglio stated it looks like the front Lot A would be a separate conforming lot and a non-buildable lot in the rear which at some point in the future will be combined with other property which was previously approved as a subdivision. Mr. Rondeau asked how much of the non-buildable lot is part of the subdivision. Chair Padula stated that piece was not part of the subdivision when it came before the Planning Board. Ms. Love stated it is part of the four-lot subdivision approved for Highland Village. She noted that there were multiple owners who signed the application.

Ms. Cavaliere stated that on the plans for the preliminary subdivision, it stated an ANR plan must be filed prior to subdivision approval which is what they are doing now. She stated the subdivision was approved, but it has not been endorsed because the ANR plan needed to be done first. Chair Padula requested Mr. Cerel look at this. Ms. Love stated she would do that. Ms. Cavaliere clarified the ANR process; she stated this is just changing the lot lines as part of the ANR process. Mr. Halligan confirmed that the non-conforming lot will then, through another application, be added to the subdivision land. Then, the subdivision plans can be endorsed.

Motion to Approve 81-P ANR: 300 West Central Street. Rondeau. Second: Power. Vote: 4-0-1 (4-Yes; 0-No; 1-Abstain). (Mr. Halligan abstained.)

Chair Padula reiterated that he would like Mr. Cerel to look at this.

D. 81-P ANR: 176-210 Grove Street

Mr. Edward Cannon, attorney on behalf of the applicant, addressed the Planning Board. He stated the Planning Board already approved an ANR on this site for one large lot. Unfortunately, the applicant's lender did not like that approach; the lender preferred the approach they are taking now by submitting this ANR for three conforming separate lots, one for each building. They would like to get the Planning Board's feedback. He is aware if the Planning Board were to approve this ANR request, the applicant cannot proceed forward until they modify the Site Plan.

Chair Padula stated the Site Plan conditions were made upon the ANR for one large lot. As they are making it three separate lots, how does it affect the Orders of Conditions? Mr. Cannon stated the site will function exactly the same way. Chair Padula stated he would like the Town attorney to look at this because they are splitting up a Site Plan that could now come under three different ownerships. Mr. Halligan noted all buildings would have to comply legally with lot line setbacks. Ms. Love asked if Chair Padula is looking for advice from the Town attorney on the ANR or the Site Plan modification. Chair Padula stated the Site Plan modification goes along with the ANR.

Mr. Levi Reilly, Marcus Partners, stated they are looking for feedback from the Planning Board. He will share this revised Site Plan and ANR with Town counsel and then come back to the Planning Board to have it all approved together. Chair Padula agreed he would like to see it all together for approval.

E. Discussion: 176-210 Grove St Site Plan Revisions

Mr. Levi Reilly stated they could return to the Planning Board in two weeks with Site Plan revisions and an ANR. Ms. Love confirmed October 5, 2020, is available.

Motion to continue to the October 5, 2020, agenda under General Business, 176-210 Grove Street. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

F. Final Form H: Villages at Cook's Farm

Ms. Love stated the applicant has submitted a Final Form H, Engineer's Certificate of Completion, and a final As-Built plan for Villages at Cook's Farm. At the September 14, 2020, Planning Board meeting, the Planning Board requested the applicant install the fence, per the approved plans, where a guardrail was installed, and discuss the color of the house as painted. She stated the applicant has provided a revised As-

Built plan showing the fence was installed, and the applicant has provided a list of house colors and a plan showing where each color is located.

Chair Padula stated BETA is not present at tonight's meeting. He noted the only item of contention is the colors. He stated there were 12 original colors in the initial application; however, the company stopped making those colors. Cook's Farm had to go with another company that had another 12 colors that were pretty close. They did not have the list of colors Mr. Roux offered to the people which were not approved. He asked if the Planning Board would like the applicant to return to the Planning Board to ask for a modification to the Special Permit for all these colors or make the applicant go back to the colors that were agreed to.

Attorney Suzette Ferreira for Villages at Cook's Farm stated that the Special Permit does not have any approved colors in it; it does not have a requirement for any colors. It may have been something that was discussed during the entire process, but once the Special Permit decision was written, there are no limitations on the colors for the project. She stated that, therefore, we would not file a modification to the Special Permit because there would be nothing to modify. In addition to that, we had met back at the beginning of the year with members of the Planning Board and Town Counsel, and many of us had lots of notes and other items from the Design Review meetings. What we found was that provided to the Planning Board was a letter that talked about what some of the predominant colors in the project would be, not that those colors would be the only colors in the project. And, when we were discussing some of the colors, it became clear that a lot of the colors that were discussed are not available any longer or things of that nature, but most of the colors in the project still fall in a variation of the colors that were discussed through the Design Review meeting. It was our understanding that this color issue was resolved, and because it is not part of the Special Permit, there is no reason to modify the Special Permit.

Mr. Rondeau stated he thought the colors and color renderings were part of the Special Permit. Mr. Bryan Taberner, Director of Planning and Community Development, explained what he and Chair Padula found that was given to Design Review. He stated that regarding colors, this is a big mess at this point. When Design Review looked at the facades and discussed colors, they asked that Mr. Roux come back with a letter proposing specifically what he was going to do. And, he did that. Basically, he gave primary colors and some secondary colors, and said these are the colors of the buildings, and he gave specific materials, manufacturers, and color types. That was the understanding. After that, the Planning Board approved the Site Plan and Special Permit. The wording of that did not get into the Special Permit findings; therefore, the attorney for Cook's Farm is arguing that if it did not get into the Special Permit, it does not apply.

Chair Padula said whether it was in the Special Permit or not, it is what was presented to Design Review for the Site Plan. So, if it is not a modification of the Special Permit, it is still a modification of the Site Plan which is part of the Special Permit. He asked the Planning Board members how they feel. Mr. Halligan stated this has been a long issue. The development is done. It is a sold-out project. Everyone seems to be happy. Maybe the colors are not so bad. No letters have been sent complaining about the colors. Maybe we accept what is there and look at it as a learning curve. He would like to have some condition that no two houses in a row could be the same color. Chair Padula said that was for the condo association; the Planning Board regards if it is built with infrastructure and safety. He reviewed the past history of the agreed upon colors by the Planning Board. He stated that no one has come forward to complain about the colors. Mr. Power stated he is okay with letting it go. Mr. David agreed with Mr. Power. Mr. Halligan confirmed the list of 191 historical colors that was provided are the colors that are there today; he would agree that these are the only colors that can be used in the future. Chair Padula stated he is not going to approve colors; it is not the Planning Board's authority; we are here to approve a Final Form H.

Motion to Approve Final Form H: Villages at Cook's Farm. Power. Second: Rondeau. Vote: 5-0-0 (5-Yes; 0-No).

G. Street Acceptance: Union Meadows Road

Ms. Love stated the current bond is held in a Tripartite Agreement with the Town of Franklin for \$2,002 for Union Meadows Road. The bond is held until the roadway is accepted by Town Council and filed at the Registry of Deeds. The applicant has requested street acceptance. BETA performed a site inspection and has noted all items are complete. DPCD recommends that the Planning Board vote to recommend to Town Council to accept the roadway.

Mr. Maglio stated they are satisfied.

Motion to Recommend to Town Council Street Acceptance: Union Meadows Road. Rondeau. Second: Power. Vote: 5-0-0 (5-Yes; 0-No).

H. Discussion: Franklin Country Club

Chair Padula stated the area of construction on the Limited Site Plan Modification only went as far as the original fueling station; it did not take up the entire back lot. He noted concern about the Final Form H for the rinse area. He stated that the Planning Board does not approve any dumpster pad without screening.

Ms. Love stated the Planning Board voted to approve the Form H at the last meeting; however, after the meeting they noted concerns because the signed plans were not presented. She showed and reviewed the signed plans through the shared screen. Mr. Rondeau asked if the original drawing that the Planning Board signed had the dumpster and pad. Chair Padula reviewed what was shown in the original plans. Ms. Cavaliere stated that on the plans that were endorsed by the Planning Board on March 11, 2020, there are three concrete pads on the plans. She stated this was in the application; it was part of the site improvements and endorsed by the Planning Board. Chair Padula requested to see the application. Mr. Halligan noted the dotted line around the work area which encompasses the dumpster area. However, it was not marked as an existing or proposed dumpster pad; it was not discussed or brought forward by the applicant. The attention was on the fueling station and rinse area. If the plan had the proposed dumpster pad, it would have been discussed; however, it appeared as though it was already there. It should have been worded as a proposed dumpster pad. It slipped by the Planning Board. Chair Padula stated it also slipped by the town's engineers.

Ms. Cavaliere stated that as part of the application they provided a project narrative which discussed the dumpster pad. Chair Padula stated he wanted the meeting minutes. Ms. Love stated she went through the meeting minutes. She stated the application is not in electronic form; it is in paper form in the Town Hall. Chair Padula asked if the dumpster pads were mentioned by the applicant during the application process and if it was reviewed by the town's engineers. He stated everything has to be watched or the applicant will slip things in. He stated the Planning Board needs BETA and the Town Engineer checking these things. Ms. Cavaliere stated that nothing was slipped in; they were clear and up front about the information. Chair Padula asked Ms. Love to provide the meeting minutes.

Mr. Rondeau asked if any of the houses at Cook's Farm have sight of the dumpsters. Mr. David stated they can see it. Ms. Cavaliere stated Cook's Farm has a six-foot fence in that area; however, she does not know if someone on the second floor could see it. She stated this issue has been brought up to the Country Club; they are informed. Planning Board members reviewed the submitted plans and discussed the dumpster pads, screening, and dumpsters. Chair Padula requested Mr. Maglio check the dumpsters tomorrow to make sure they are the lockable type.

I. Meeting Minutes: August 12, August 17 & August 24, 2020

Motion to Approve the Meeting Minutes for August 12, 2020. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

Motion to Approve the Meeting Minutes for August 17, 2020. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

Motion to Approve the Meeting Minutes for August 24, 2020. Rondeau. Second: David. Vote: 5-0-0 (5-Yes; 0-No).

Motion to Adjourn the Remote Access Virtual Zoom Planning Board Meeting. David. Second: Rondeau. Vote: 5-0-0 (5-Yes; 0-No). Meeting adjourned at 8:29 PM.

Respectfully submitted,

Judith Lizardi, AL
Recording Secretary

******Approved by the Planning Board at the October 5, 2020 meeting***