



PLANNING BOARD
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PLANNING BOARD MINUTES

September 2, 2010
Ayer Town Hall
1 Main Street
Ayer, MA. 01432

In attendance: Jennifer Gibbons (Chair), Mr. Glenn Garber (V. Chair), Mr. Peter Johnston, Steve Wentzell (Clerk) & Mr. Mark Fermanian
Susan Sullivan/Office Manager

General Business:

7:10 PM Chair called the meeting to order and read over agenda items.

Public Input:

- John Cadigan/Autumn Ridge

203 Autumn Ridge Drive

John stated; My hope is to get an understanding of the Board's usual practices to insure project specs set forth by a developer at the time of their Permit request, and any additional requirements that may have been imposed by the Board in its approval of the submission, are actually guaranteed to be fulfilled. Given that the original developer of Autumn Ridge Farms [Steven Gillis dba Gillis Homes] ran into financial problems and declared bankruptcy leaving many suppliers, contractors and investors with tremendous losses, the amount and state of monetary performance bonds now in place to insure successful development completion are of considerable resident concern. Given that the original developer [Steven Gillis dba Gillis Homes] has been replaced by an entity headed by John Bachich of Woodstone Homes [Pennsylvania] as Trustee and Declarant, are all the original specs and Board requirements still fully in place, and are they readily enforceable given that Mr. Bachich's firm is from another state? What can be done to insure that the Autumn Ridge Farms Resident Advisory Committee will be notified of any appearance before the Board by the new developer, or his agents or representatives, given that formal Trusteeship transition to a resident association has not yet taken place? Of particular concern is any action related to bond or lien release that may be brought to the Board. What tools are in place to insure that the current road [which consists only of a base coat, damaged by developer construction vehicles and "patched"] will receive a final top coat of sufficient thickness and quality to comply with good engineering practice and Public Works Department Superintendent Daniel Nason's requirements, and that all manholes, utility access covers, water cut-offs, catch basins etc. will be raised to match this top coat. John stated that their main concern is the roadway and would be more than happy to work with the Planning Board to find information.

Glenn stated that the Planning Board could possibly rescind the original approval? This is a question for town council.

Jenn stated she will personally notify John of any upcoming meetings regarding Autumn Ridge.

John C. would like to request that DPW oversee all roadwork.

DPW superintendent, Dan Nason agreed to do a visual inspection of the road tomorrow. Susan Sullivan will add Autumn Ridge to next month's agenda.

Glenn Garber Motioned to authorize the Chair to send Mr. Cadigan's letter to Town Counsel as well as a Planning Board cover letter to insure further remedies.

Mark Fermanian 2nd

VOTE 5-0

All in Favor

- Tom Roy and Jim Nash (H.O. Trustees)/Pond View Estates

As stated in Mr. Roy's letter: It has been nearly a year since the Pond View Estates Condominium Trustee Board was formed and had their initial discussions with the town regarding the status of the Pond View Estates development. In that time we have made some progress resolving some of the pending items, however, there remains a very large problem that is stalled. Despite several requests to complete the project by the Pond View Estates Condominium and Homeowner Trustees and some requests by town departments (DPW and Concom) the development has still not been completed by Hicks Homes, Inc. In fact, the Developer Hicks Homes Inc. has taken no action since this time last year to complete the key open items.

In a joint meeting on Feb 26th, 2010 at Town Hall between the Trustees, PB, Concom, DPW, Meisner-Brem (Eng'g firm for Hicks Homes) and Attorney Paul Alphen (Hicks Attorney), it was learned that there was no Bond Money left for the town to use as leverage to have Hicks complete the project. Attorney Alphen summarized the meeting minutes and sent them out citing the need for prioritization and discretionary spending. Since that time, there were a few subsequent meetings with some town departments and Meisner-Brem however nothing substantial has happened to get Hicks to complete the project. It seems that Hicks is the gate to completing the final work necessary to close the project and is not responding accordingly.

The remaining open items gating the closing of the development are:

Phase II "As Built" plan submission for the Townhouse sections. Hicks was sent a written proposal by their Engineering Firm, Meisner-Brem, to complete this task but to date has not received any response.

Road Acceptance (Loon Hill Rd, Iris Lane, Rose Lane, Orchid Lane and Lilac Lane) are all designed to become public roads, however, they are not at this time despite a formal certified written request to the town on Dec, 2008 by Attorney Alphen. It is our understanding that the lack of response by the town released the remaining Bond money.

Drainage Basins/Easements. The Sunflower CT basin is substandard and was cited by the DPW Superintendent in writing to be non-compliant and has not been remedied. The basin off Rose Lane, although built correctly has no means of access for removal of sediment and overgrowth.

Order of Conditions (Concom). To our knowledge this is still a pending item awaiting Hicks compliance along with the remaining items.

With the exception of perhaps the new TA, many of you are aware of these problems at Pond View, however, I am not sure if you know the current status. The Trustees have made several attempts to get Hicks to respond to these problems through their Attorney to no avail and are seeking the help of the town in pushing the Developer Hicks Homes to complete the project prior to the onset of Winter and the open issues potentially becoming worse and more expensive to rectify.

On behalf of the 59 unit/home owners in Pond View Estates, we are requesting a special meeting between the town decision makers and the Trustees who can help determine the

priorities, ownership and schedule to push this to closure followed by a meeting with the Developer, Attorney Paul Alphen, and Meisner-Brem. We would like to use this as an opportunity to identify the responsible owners of these items and who needs to be involved from the town then schedule a joint meeting before the 29th of September. The Trustees have an Annual Meeting with the Condominium Unit Owners on Sept 29th and they are seeking a Trustee update on what the Town is willing to do to engage the Developer to complete the project.

DPW has had no response back from Meisner Brem or Hicks. Hicks signed on as trustee in January 2010. Jennifer thinks BOS should send a violation notice to Hicks.

Basins are “functioning”, but are not built correctly. Maisner Brem signed design plans. Susan Sullivan will add Pond View Estates to next month’s agenda.

Mark Fermanian motioned to authorize Chair to draft a letter to Town Counsel regarding Pond View with BOS approval.

Glenn Garber 2nd VOTE 5-0 All in Favor

- Geotech Services/Emily’s Way /Update

Dan Nason/DPW Super. stated Geoinsite already does work for the town. Dan N. asked if the Planning Board wanted him to get a 2nd proposal for goetech services. Planning Board said no they are satisfied with this firm.

S. Sullivan to forward Dan N. email dated Aug. 31 re: fees.

Glenn Garber Motioned to retain GeoInsite for task 1 with the possibility that task 2 or 3 may be utilized later on and Planning Board will notify the applicant concurrently as to work and inform proponent as to payment needed for Consultant By-law fees.

Amendment: Chair to sign agreement. PB may need mutually agreed upon extensions.

Mark Fermanian 2nd VOTE 5-0 All in Favor

Bills and Minutes: (8:12 PM)

Discussion regarding Legal counsel at the last meeting. Jenn Gibbons concerned as to how Ms. Conley obtained information regarding legal billing. Chair stated it was alarming as questions were procedural. Steve W. read K&P letter into the record (see attached marked “exhibit A”)

Glenn Garber motioned to authorize payment for legal bills which were tabled at the last meeting.

Mark Fermanian 2nd VOTE 5-0 All in Favor

Mark Fermanian motioned to pay Hamwey Engineering invoice in the amount of \$5,295.00 out of the consult by-law acct. for Emily’s Way.

Ms. Sullivan stated this acct. has not been set up to date. Chair stated Ms. Sullivan assured her it was set up at the last meeting. Ms. Sullivan reminded the board that the chair was not at the last meeting and Mr. Mullaney had previously stated that they were looking to have the initial application fees exhausted before they offered additional fees. The members concurred.

Steve Wentzell motioned to table this bill to the next meeting on the 9th.

Mark Fermanian 2nd VOTE 5-0 All in favor

Steve Wentzell motioned to approve the minutes from August 12, 2010 as written.

Discussion: Glenn Garber offered an amended version of the discussion regarding legal billing:

Suggested alternate version:

“ Two of the legal bills for K&P were questioned by Pauline Conley, who asked about their subject and necessity and questioned the amount of time and expense involved. Mr. Garber indicated that they were about procedural questions and said that they were appropriately-made consultations. The board agreed unanimously to table the billing items in question, seeking further clarification. Ms. Conley also asked if Town Counsel had ruled on the applicability of the 2001 subdivision regulations and he answered that the question had just come up and legal opinion would be sought.”

In place of:

Draft meeting minutes taken by Ms. Sullivan which stated:

“Pauline Conley asked what was discussed in an hour and ten minutes and was this reported back to the Planning Board?

Glenn stated the procedures and subdivision requirements were discussed and “No” this was not reported back to the Board.

Pauline asked if Town Counsel agreed or disagreed with the 2001 proposed subdivision regs?

Glenn stated that question just came up tonight.

Mary Aratta (Public Spirit) asked if Town Counsel should be at these meetings or is this usually done in memo form?

Glenn stated this was done in memo as part of the peer review for the project.”

Steve Wentzell motioned to approve minutes as amended.

Glenn Garber 2nd VOTE 4-0 (J.G. abstained) All in Favor

- Zoning By-law

Glenn feels there is not enough time to get everything together for this fall Town Meeting. Steve W. suggested the Chair present the information at Town Meeting as an item coming up in spring.

Mary Spinner approached the Planning Board to question why the BOH was not notified as to the recommended change regarding the Aquifer Prot. agents, as right now it is the BOH and if changes are being sought then the BOH should be included in the discussions. The Chair assured Mary that the Planning Board will keep the BOH in the loop in future discussions on this matter.

- Stormwater Regs.

Town Admin., Concom, Jenn Gibbons & Glenn Garber have been working together.

Peter stated he would like P.B. to review fully before Town Meeting. Agreed.

Operating Rules and Regs. P.B. to review and suggest on table of contents.

Peter Johnston stated that new Town Administrator Robert Pontbriand has done a great job at Montachusett Regional Planning.

Steve Wentzell Motioned to adjourn

Peter Johnston 2nd VOTE 4-0 All in Favor

Adjourn 9:05 PM