



CITY OF GLOUCESTER

PLANNING BOARD

MEETING MINUTES

Thursday December 16, 2010 at 7:00 PM

Kyrouz Auditorium, City Hall, 9 Dale Avenue, Gloucester

Richard Noonan, Chair

Members Present:

Rick Noonan, Chair
Mary Black, Co Chair
Marvin Kushner
Karen Gallagher
Henry McCarl

Staff:

Gregg Cademartori, Planning Director
Pauline Doody, Recording Clerk

I. BUSINESS

- A. Call to Order with a Quorum of the Planning Board
- B. Introduction of Planning Board Members and Staff

II. APPROVAL OF MINUTES

- A. Meeting of November 18, 2010

Motion: To approve the minutes of November 18, 2010

1st: Marvin Kushner

2nd: Mary Black

Vote: All approved 5-0

- B. Meeting of December 2, 2010

Motion: To approve the minutes of December 2, 2010

1st: Karen Gallagher

2nd: Marvin Kushner

Vote: All approved 5-0

PUBLIC COMMENT: None

III. CONSENT AGENDA

- A. Christopher F. Nash to adjust lot lines at 89, 103, & 109 Cole's Island Road (Assessors Map 258 Lot 13, and Map 253 Lots 23 & 24)

Presenter: Peter Ogren, Hayes Engineering

Mr. Ogren stated he was here for two purposes; there are three existing lots and back in 2005 did receive a common drive permit to access two lots from the common drive. One lot was designed to be accessed conventionally. We have applied to board to amend that special drive permit in order to be allowed to take the same common drive and use it to access three lots; the lots have the benefit of the significant views. In addition, it's requested that rather than run the water line, the installation of wells would take place and sprinkler systems are put into the homes. We also want to reconfigure the lots so we can use the sites the way we want.

Mr. Cademartori asked if Mr. Ogren foresees any water pressure issues.

Mr. Orgen stated that a booster pump would be installed to have the water pressure at acceptable levels.

Mr. Cademartori stated that the date of original plan was 2003. A site walk was done with Mr. Nash and Mr. Orgen and there has been some construction of a common drive. There is no requirement for the extension of a water main to service any additional hydrants in the area. It is not a condition at this point, but from an emergency perspective the sprinkler system is it. Mr. Cademartori asked for more information regarding the access for the third lot.

Mr. Orgen stated that it was his understanding that the two lots would be accessed by the common drive. Mr. Orgen explained for the site plan how the third lot would be accessed.

Mr. Cademartori stated concern about that there were wetland issues and utility issues. At this point it seems that all that permitting has expired.

Mr. Orgen stated that he didn't know for sure where the permits stand, however Mr. Nash would know.

Mr. Cademartori stated there are conditions of the common driveway special permit that required that those other approvals be satisfied before the construction of the common driveway. Mr. Cademartori's understanding from the health department was that it was never gone to the level of getting approved septic designs for the lots.

Moving forward there are going to be 3 separate property owner and it looks like we are shifting a lot of the responsibilities of utility to the individual lots and the concern is that there is a clear understanding and expectation of what and where those responsibilities lie. There are a lot of loose ends as far as septic & capacity design, wetland permitting etc.

Mr. Orgen stated that he couldn't see anyone buying these lots without getting a sanitary permit. There was an auction today. There is a bank mortgage and there was talk about auctioning portions or all of the land off. If they did buy a lot, it would not be one of the lots we are talking about this evening it would be one of the old lots.

Mr. Cademartori stated what was advertised was the 46 ½ acre property. The concern is either we approve a plan that is potentially not recorded because there may some sort of agreement. Additionally, there has been some discussion with engineering department on the idea of rather than bringing a water line to service the lots versus the idea using wells and whether they had concerns with that. The septic still has to be revisited.

Mr. Orgen stated that maybe what needs to be done that if for some reason that lot was sold separately, which it could be because there is an approval not required plan on record. The planning department has the mylar, vote to approve it, hold the mylar and find out from Mr. Nash what took place today.

Ms. Black asked for clarification regarding the potential auction of the piece of the property today. She asked for the status of the auction

Mr. Cademartori stated that it was his understanding that the former configuration of 46 ½ acres was an agreed to be purchased

Ms. Black asked if the auction was prompted by a mortgage lender and if the mortgage lender foreclosed on the property. If the mortgage lender foreclosed on the property, does the petitioner have title to the property to ask this board to go forward with the plan. My question is; do they have legal title to the property to ask for this?

Mr. Cademartori stated he did not see the advertisement for the property in the paper. He stated that this is his concern also. It impacts that purchase or it leaves somebody out of the process permitting something that directly affect that piece of property.

Ms. Black stated that if someone else has title of property, would there have been an obligation of notice for them. Is it possible to continue this until we find the answers to these questions?

Mr. Orgen stated he has right of redemption. It does jeopardize his position if the action doesn't take place. Mr. Orgen believed an action can take place subject to no change in title.

Ms. Black stated her concern that it may put the city in the middle of approving a plan where the petitioner may not have title.

Mr. Kushner concurred with Ms. Black stating the board should know who has title to the property before moving forward.

Mr. Cademartori stated that with regards to the ANR, unless Mr. Orgen has Mr. Nash's consent to continue, it must be acted on. The conditioning of the modification, it still is within the time frame for it to be continued and they are interrelated. Mr. Cademartori stated concern in approving the mylar.

Ms. Black stated that some of the information the board is lacking is important for the ANR.

Mr. Kushner stated that if they had a foreclosure sale, it doesn't mean the title has passed

Mr. Noonan stated that the concern is that if the board doesn't act, it takes it out of our control.

Ms. Black the question is whether the petition is properly before us. Whether we as a board should act when there are questions. Ms. Black asked Mr. Cademartori; is one of the elements that the board is entitled to consider in approving or denying the petitioner authority to title?

Mr. Cademartori stated that at the time of the submission this issue wasn't before us. It is nothing confirmed other than an auctioneer stating they were on the property today. Mr. Cademartori was not clear as to what the affect would be. All the properties are affected by the ANR application.

Mr. Orgen stated that he did not see the risk if the board approve the plan and held the mylar until it was confirmed that the plan was properly presented.

Mr. Cademartori stated that if the board agrees to the conditions of the common driveway special permit, the development of the lot of the 36 ½ acre configuration as shown on this current plan is relying on the ability to have the common driveway serve that third lot. There is not one without the other. The common driveway could be continued for drafting and the ANR can be approved, but can't be utilized without the common driveway.

Ms. Black asked if there was activity as early as of today on the property, why wasn't the board notified.

Ms. Gallagher stated that if the application came in, the petitioner had title to the land, everyone received proper notice throughout the whole process and the fact that there may be a future change in title in lot 3, Ms. Gallagher stated that the new buyer may not have needed notice.

Ms Black stated that if there was an auction and a sale today, are boundaries of that lot 3 different than they are today? If they are, how does that impact this plan?

Mr. Cademartori stated yes they are different.

Mr. Cademartori suggested to the board to the nexus of the common driveway special permit is a strong way to go about it. If that is continued, it's a request for a modification. If at the next meeting it is found that the ANR as approved has an issue with title and the common driveway is denied then that configuration can be utilized.

Ms. Black stated for clarification that the ANR can be approved, the public hearing can be continued and no action can be taken, so the ANR plan before the board would be ineffective without the allowance that the petitioner is seeking at the public hearing. Does that subjects the board to any liability knowing there are questions regarding the ownership?

Mr. Cademartori stated that there is no evidence one way or another. We have to rely what the applicant has submitted.

Motion: The subdivision control law doesn't apply to the ANR application 89, 103, & 109 Cole's Island Road (Assessors Map 258 Lot 13, and Map 253 Lots 23 & 24) as presented.

1st: Henry McCarl

2nd: Karen Gallagher

Vote: All approved 5-0

IV. CONTINUED PUBLIC HEARING

In accordance with MGL Chapter 40A, Section 9, and City of Gloucester Zoning Ordinance, Sections 1.5.5 and 5.21, Gloucester Planning Board will hold a public hearing to consider the application from Christopher F. Nash for an amended Common Driveway Special Permit at 89, 103, & 109 Cole's Island Road (Assessors Map 258 Lot 13, and Map 253 Lots 23 & 24).

Motion: To continue the application from Christopher F. Nash for an amended Common Driveway Special Permit at 89, 103, & 109 Cole's Island Road (Assessors Map 258 Lot 13, and Map 253 Lots 23 & 24) to January 6, 2011 and the petitioner or counsel to be present

1st: Karen

2nd: Henry McCarl

Vote: All approved 5-0

V. OTHER BUSINESS

A. Planner's Report – Setting Meeting Schedule for 2011

Mr. Cademartori stated that the first meeting of the New Year is January 6th and that the Board will meet the first and third Thursdays of the month. He also reported that Gloucester has been designated a Green Community. Gloucester is now eligible for grant funding to support renewable energy and energy efficiency projects.

B. Chairperson's Report- None

VI. ADJOURNMENT

Motion: To adjourn

1st: Henry McCarl

2nd: Karen Gallagher

Vote: All approved 5-0

VII. NEXT MEETING

Next regular meeting of the Planning Board is Thursday, January 6, 2010

Planning Board Members: If you are unable to attend the next meeting please contact the Planning Office at (978)281-9781.