



**CITY OF GLOUCESTER  
PLANNING BOARD  
MEETING MINUTES  
DECEMBER 6, 2012  
7:00 P.M.**

**Kyrouz Auditorium, City Hall, 9 Dale Avenue, Gloucester  
Richard Noonan, Chair**

**Members Present:** Mary Black, Vice Chair, Marvin Kushner, Joe Orlando, Linda Charpentier, Henry McCarl, Rick Noonan- **Absent**, Karen Gallaher- **Absent**

**Staff:** Gregg Cademartori, Acting Community Development 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
- C. Approval of Planning Board Minutes of November 1, 2012 & November 15, 2012

**II. EXECUTIVE SESSION**

To discuss the pending litigation surrounding ANR division of 23 & 27 Silva Court in the matter of Loiacano Companies LLC vs. the Gloucester Planning Board.

**Motion: To go into executive session.**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Joseph Orlando**

**Vote: Approved 5-0**

The board moved into Executive Session to discuss the pending litigation surrounding ANR division of 23 & 27 Silva Court in the matter of Loiacano Companies LLC vs. the Gloucester Planning Board.

**Motion: To resume the planning board meeting of December 6, 2012**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Joseph Orlando**

**Approved: 5-0**

Minute's approval for November 1, 2012

**Motion: Approval of the minutes for November 1, 2012**

**1<sup>st</sup>: Linda Charpentier**

**2<sup>nd</sup>: Henry McCarl**

**Approved 5-0**

Minute's approval for November 15, 2012

**Motion: Approval of the minutes for November 1, 2012**

**1<sup>st</sup>: Marvin Kushner**

**2<sup>nd</sup>: Linda Charpentier**

**Vote: Approved 5-0**

### **III. PUBLIC COMMENT-**

#### **Karen Ferrante, 27A Silva Court**

**Ms. Ferrante** stated she was concerned about the lot between her house and 23 Silva Court. She stated she is an abutter and also the elected road manager. It is her responsibility to make sure the road is taken care of. The road conditions do not meet the requirements. It is not 20 feet wide in all places and during the winter months it is reduced further. It is sinking in several spots as are some driveways that were installed at the same time. There is a financial burden on the homeowners due to the inferior nature of this road is very serious. This will only get worse if heavy equipment is used if additional buildings are approved. There are also water runoff issues. During heavy rains the storm water run off is very poor. There is improper drainage and soil erosion on the properties. Any additional building will make the situation worse. Snow removal is another concern. Due to width of road and the placement of the houses, any viable place to move the snow is to the middle lot. The plows cannot turn around if they didn't have that area. It is a safety hazard if an ambulance or fire truck couldn't get through. Property values will be negatively impacted if the city approves an additional house on the lot. The current owners have been paying taxes on that property and 100's of dollars in maintenance on the lot to make it to look good. The thought of jamming in a house on that lot will make the area look worse. It will tank the property values. No provisions have been put in place for the taxes we have paid on that property, for the lawn maintenance we have paid, and for the high devaluation of our properties if that building is built. Ms. Ferrante stated she was given false information at the time she purchased her property. She stated she was led to believe that the road and land met city requirements and the extension requested to complete the building was 6 months. The 6 month extension has been indefinitely extended because of a legal loophole call "tolling" during this appeal. She stated she has felt wronged

**Ms. Renee Nicastro** approached the podium and introduced herself.

Attorney Feuerbach indicated he would like to address the board.

#### **Attorney Peter Feuerbach, Rubin & Rudman**

**Attorney Feuerbach** requested that he would like to present plan before any additional public comment is taken regarding Silva Court.

**Ms. Black** confirmed with Attorney Feuerbach that his preference would be that public comment be taken after his presentation.

**Attorney Feuerbach** stated that is his preference. How the subdivision control law works is that the approval not requires plan process and is done without a public hearing, but at a public meeting. He stated he would like to present the information and have the board vote on the matter. If the board is choosing to allow a public hearing, he is not able to stop that. The presentation will be limited to the ANR application, and if the board insists on having public comment, he asked that it be heard after the presentation.

**Ms. Black** stated the board is not insisting on a public hearing. The chair is electing to do one of two things: allow the next person to speak during the public comment section, or in deference to Attorney Feuerbach in good faith, allow the applicant to move forward with the presentation.

**Attorney Feuerbach** stated he would like to present first.

**Ms. Black** asked Ms. Renee Nicastro if it was agreeable with her to allow Attorney Feuerbach to present before her public comment.

**Ms. Nicastro** agreed.

### **IV. CONSENT AGENA –ANR APPLICATIONS**

- Eric J. Loiacano to divide two lots into three at **23 & 27 Silva Court**  
(Assessor's Map 51, Lots 28 & 29)

**Presenter: Attorney Peter Feuerbach, Rubin & Rudman**, representing the Loiacano Co.

**Attorney Feuerbach** stated the applicant filed the application for the endorsement of the approval, not the required plan. The order for remand that Judge Long of the land court issued, came before the board seeking the approval of the ANR. An extensive mediation was held back in June 2011, concluding in an agreement and concluding in a joint motion to the land court, asking for the order for remand. It was issued in September 2011. In the order for remand it is required that Loiacano Company to do certain things and once they were done then the board was obligated to endorse the approval not required plan. In October 10, 2012 the board received material that Loiacano had performed and it was the board's obligation to endorse the approval not required plan.

There are 2 existing lots on Silva Court, #23 & #27. Part of each parcel will be combined into a third parcel which will have another duplex on it and will be #25 Silva Court. Attorney Feuerbach referenced Ms. Ferrante's comment stating that when she bought the property it was made clear that there would be a third lot and there would be a duplex on it. When the board was informed on October 10th that the work had been performed, it was met with resistance. Attorney Egan informed Loiacano Company that they had not performed and would not be on the Planning Board's agenda. It did not get resolved and there was no response. A file to enforce the remand was made and a conference call with Judge Long was held on November 20, 2012. Judge Long clearly indicated that he was not happy with the position that the staff of the city had taken. He required the board to hear us. He indicated more than once that he expects that the board will endorse the plan, unless it has good reason not to. If not, it will be in writing and signed by the board members. We have provided the board with information demonstrating there is compliance with what the board was concerned about and now it is time for the board to act. The conditions of the road have been addressed, storm water, and the retaining wall. A neutral engineering firm was hired as requested by the board. McPhail Associates was hired and inspected the road. In the report, it stated that the road is fine. The road is great. One of their recommendations was to leave it. It should have a 15 year life and should be monitored. It was observed that there was an insufficient amount of paving compared to what the subdivision regulations require. A pavement overlay can be poured over it. McPhail suggested that the paving be done after the work is completed on Lot 2. McPhail Associates report indicated the storm water is fine. The recommendation was to increase the number of drain chambers from 4 to 6 and they should be 2 feet in depth. McPhail also stated in the report that when the area is excavated to put the drain chambers in, to go down to the sandy soil. Also under storm water, McPhail stated that there should be operation and maintenance of the chambers, they should be inspected and put in the condominium documents.

The board had expressed concern in relation to the stability of the stone wall and the storm water drain location. McPhail's report indicated the stone wall is fine. The storm water chambers must be at the required depth and backfilled with gravel. Loiacano Co. is committed to doing this work. If the city is concerned about Loiacano Company's doing the work, they can withhold the issuance of the Certificate of Occupancy until the items are performed. That is the most effective way to get something done. In addition, the six recommendations from McPhail Associates were put on the drainage plan. It is part of what the city is going to get and what the city can enforce. Attorney Feuerbach submitted an additional plan and letter to the board. Another item in the order for remand is that Loiacano Company is required to send a request to the fire chief to establish a fire lane. That was done on October 10<sup>th</sup>.

**Ms. Black** requested that Ms. Nicastro step forward to proceed with her public comment.

Mrs. Renee Nicastro 14 Silva Court

Ms. Nicastro submitted information to the board.

**Ms. Black** asked Attorney Feuerbach if he would like to review the submitted documentation. Attorney Feuerbach stated he did.

**Ms. Nicastro** stated that Silva Court is not a through way. Lester Garvin does aerial photography and in his professional opinion, a road existed in the location of Silva Court in August 1955. She stated someone is here tonight who lived on Friend Court that backs into Silva Court prior to 1955 into the 60's and to his knowledge, a road never existed. When Mr. Loiacano was given building permits they were for single family dwellings at 23 & 27 Silva Court. The single family dwelling was already built with two units and the occupancy permit for 23 already had the foundation on it for two units. It was brought to the attention of the building inspector. Why would we believe in the future that he will actually do all of the items he says he's going to do contingent on occupancy permit? Once the buildings are there, once they have an occupancy permit or not, the buildings are there. What is our recourse? How can we protect ourselves from that?

Ms. Nicastro submitted written documentation and copies of affidavits submitted by Steve Burke, Dana Aptt, Gail Brigham, & Richard McCormick. Ms. Black offered Attorney Feuerbach the opportunity to review the affidavits which he accepted.

**Ms. Black** asked for a show of hands from the public of who would like to speak. Several hands in the audience were raised. Ms. Black stated in fairness to all, she would allow public comment.

**Attorney Feuerbach** stated his objection to the continued public comment. This is a public meeting, not a public hearing. It is not fair to us, nor is it lawful. We object to the allowance of various people to come up and make their presentation.

**Ms. Black** stated that it is within the Chair's discretion to allow public comment.

**Suzanne Egan, City Solicitor, City of Gloucester** clarified the process under which the board is acting. Initially the meeting was opened and asked for public comment. One person was able to speak. Attorney Feuerbach interrupted and asked the board not to continue with the public comment period, and asked for his application to be heard first. So the process now is to continue public comment period in response to the presentation which is completely appropriate at this time. The board is following proper procedure.

**Gary Roark, 23A Silva Court.**

**Mr. Roark** stated there are drainage and runoff issues. The road is not constructed according to the correct specifications. It drains into the building at 23A. He stated that there is water in his yard all the time. He hopes there is mechanism that appropriate engineering drawings are done and that regulations are followed. It is a narrow road. It is 12' wide in some places.

**Dana Aptt 134 Prospect.**

**Mr. Aptt** stated he has worked and played on Silva Court and it has never been a passable way. It was a dead end fisherman's path. There has never been a road there.

**Bethany McNichol, 6 Friend Court**

**Ms. McNichol** stated she was never informed about a third duplex. She stated she was called tonight for information and is not in agreement with this application. She stated she has already been through enough with this development. A tree was cut down on her land and trespassers on it during the previous work. She informed the board that she had to contact the city to come and remove trees that had been disposed of on her land from this project. She stated Mr. Loiacano's work does not stand well with her.

**Lon Hamor, 266 Dodge St, Beverly, MA.**

**Mr. Hamor** stated he owns 14 Eastern Avenue which is below the subject property. He stated concern about the drainage issues and if this process would minimize any review of drainage. If it does, he stated he would be against it. He asked for the drainage to be reviewed at the highest levels to ensure that his property isn't adversely affected by the additional construction at the site.

Ms. Black closed public comment.

**Ms. Black** gave her synopsis of the presentation. The McPhail Associates report of 6-4-12 suggests that there are three areas of discussion; pavement, storm water, and stone wall. In those three areas, deficiencies were identified that were not addressed. The Council position is that the applicant is agreeable in rectifying the deficiencies and that in itself brings their application into compliance and for the ANR to be allowed.

**Mr. Orlando** stated that this board works with applicants to try to make projects profitable. In looking at the plans and representations presented this evening is not enough to vote for the ANR. Mr. Orlando asked Attorney Feurbach if it was possible to receive more definite plans that address the three issues.

**Attorney Feurbach** stated he would like to resolve the issues with the board. He stated that more than enough information has been provided. It was agreed between Mr. Loiacano and the board that a neutral engineer to inspect, evaluate, and report. The board gave the name of McPhail Associates and that is who was hired. The points are not overly complicated. Their requirements and recommendations were clear and they were not modified nor were it asked for them to be. Loiacano Company said they would do them and took an extra step in to put the points on the plan which the city will use to govern the project.

**Ms. Black** stated that she would like an independent engineer confirm the things that the applicant says he will do are in fact going to meet the points that need more work.

**Mr. Cademartori** stated that the plan that was submitted yesterday was unstamped. The plan that was submitted this evening is stamped. What is being suggested is that the independent engineer that was hired be satisfied that the plans and information submitted is consistent with their recommendations. In the absence of this there is statement that compliance will be reached. It is also important to note that only since the submission of December 5<sup>th</sup> has there been a suggestion of a timeline of the things that need to be implemented and that they be contingent on an occupancy permit for the third building. In the two week time period between now and the next meeting, McPhail Associates can review the plan and ensure that they are comfortable that it is compliant.

**Mr. Orlando** stated that a critical point to recognize is the fear of the people in the neighborhood. He stated that he is not convinced tonight that there is the necessary information for an approval. He suggested to Attorney Feuerbach to use the two week period to give the assurance to the board and to the neighbors that the work to be done will be compliant with the points in the McPhail report

**Attorney Feuerbach** stated the question seems to be if we will agree to do it, and with all due respect, it is no. As Mr. Cademartori explained, there are stamped plans. How the board is assured that what we have said we are going to do is in conformance with what the recommendations by McPhail Associates come almost verbatim from the McPhail report. The most important point is at the end of the work is; are we going to get a certificate of occupancy. If the work isn't done, there isn't a certificate of occupancy.

**Mr. Orlando** asked what the position of the client would be to posting a bond to ensure the work gets done.

**Attorney Feuerbach** stated the judge indicated that he thought it was compelling that if the work was not done properly that there would not be a certificate of occupancy issued. During the course of the conversation he also mentioned a bond. However, it is not necessary because a certificate of occupancy would not be issued. A bond is not required for the construction of a home in Gloucester.

**Mr. Orlando** stated that a point was made by one of the speakers saying that the building will be there even if there isn't a certificate of occupancy. The bond gives assurances to the neighborhood and to the board that the work will get done properly.

**Attorney Feuerbach** stated that another thing that came out of the conference call with Judge Long that tonight was the night that the board must decide and December 20 the board must issue its written decision. He asked the board if the bond is the only thing standing between an endorsement of the ANR plan.

**Ms. Black** stated that this board has a reputation of being cooperative and reasonable. She reiterated that she would like McPhail Associates to review and ensure that the plan submitted on 2-10-2011 and revised on 12-3-2012, and that the notes and plan reflects the issues that were raised in the June report. There are notes on the side of the plan and it is not clear that those notes and the plan itself are consistent to what is in the report. That, in conjunction with a bond may be something to speak with Mr. Loiacano about.

**Mr. McCarl** stated it's important that the board was told that the road was built to specification and was shown in the report that that was not the case. It's an interesting question about promises that are made and whether those promises have been kept or not. Whether statements have been made and whether they are truthful or not. Very plainly and clearly in the McPhail report, the road did not comply. He stated to Attorney Feuerbach that he indicated that the report supported the road as it was and that is not the case. It has not been interpreted as such. The board needs assurance that the drainage work will be done. There are serious deficiencies that have been pointed out by people who live in the area and they need to be remediated. Before we approve anything certain conditions need to be applied.

**Mr. Kushner** stated that this has been a difficult undertaking and would like to see it resolved. The people need to be protected and the issue of a bond would go a long way. A complete document needs to be provided.

**Attorney Feuerbach** stated that he would like to confer with his client. He stated that this is not an opportunity for the planning director or engineer to say what McPhail should have done. The notes are simple and the board could move forward subject to getting the confirmation you need from the planning director or engineer that the six notes reflect accurately what McPhail's report said.

**Ms. Black** stated that the point just raised confirms her concerns. McPhail should review the notes to control the variables as suggested so someone can't say that other things should have been done. If they are simple, it will be cost effective.

**Attorney Feuerbach** asked the board what they had in mind for the bond.

**Ms. Black** stated that council knows that is difficult to determine with out a scope of work. The board is looking for you to entertain a discussion with your client.

**Attorney Feuerbach** stated the possibility of it is tied into the size of it. Attorney Feuerbach spoke with his client. After speaking with his client, he clarified with the board what information they would like to receive: confirmation from McPhail that the notes shown on the plan submitted confirm to their recommendations. Loiacano Company is agreeable to provide that revised plan to McPhail and ask them to confirm and provide a letter stating their confirmation.

**Ms. Black** stated she wants to make sure that the board and council does not get caught up in language. It is to make sure that the storm water system, roadway remediation and stone wall re-construction comply with the itemized recommendations in the report. Is that your understanding Attorney Feuerbach?

**Attorney Feuerbach** stated it was not. He stated that his understanding is that they have already inspected all of those things and reported on those things in the June report. They then had 6 recommendations and they have been put on the plan. The board wanted conformation that what was put on the revised plan accurately reflects the 6 recommendations. If that is what the board would like then it is agreeable.

**Attorney Egan** stated that the City Engineer is here this evening and may be able to help with the appropriate language.

**Paul Keane, City Engineer, City of Gloucester**

**Mr. Keane** stated after reviewing the plan quickly this evening, the notes and the graphical representation on the plan are not consistent. The plan needs drafting work to be consistent with the notes so that during the course of construction the contractor can build from the plan. In the area of the roadway, there is no definition on the plan graphically as the extent of the pavement remediation. The pavement does not comply with the depth for the City of Gloucester. There are no limits on the plan. Paul Keane referenced the 12-3-12 revised drainage plan with the board and Council. Mr. Keane explained some of the discrepancies he's noted between the plan and the McPhail report. He stated the plan should be plan revised, re-dated and re-stamped to indicate that the notes and graphics are consistent. He recommended that McPhail and his consultant

redo in total the drainage design. They should, sign off and stamp. Mr. Keane stated he would put his comments in writing for the board.

**Attorney Feuerbach** stated he had no questions for the engineer. Note #1 describes the extent of the of the pavement. The road goes from 23 -27. The notes clearly identify the extent of the excavation; clearly identify the sand and gravel to be used. The board has the information it needs and the applicant is not inclined to go back to McPhail to ask for additional analysis. It is not required or necessary. This is not a review and approval of McPhails work. If the board wanted another bite of the apple with review and approval it would have been in the order. Ms. Black stated that the board and council have different perspectives. The board's reading of the McPhail report suggests that there are some deficiencies. The applicant says the work will be done and the board is seeking confirmation from McPhail. There is a January 3<sup>rd</sup> court date and this could all be resolved by December 20<sup>th</sup>.

**Attorney Feuerbach** stated it's a problem if the board is requiring or expecting of the Loiacano Company another round of engineering analysis and review to the plans. It is not allowed, its not required or is it reasonable. The prior version of this plan is what McPhail reviewed. We have agreed to take the revised plan to McPhail to confirm or not whether the plan is consistent with its recommendations.

**Ms. Black** stated that the board is looking to make sure that language is correct for the requests being made. Paul Keane, the city's engineer is willing to frame the questions to go back to McPhail Associates so there is no confusion because of misuse of language. Where do we disagree?

**Attorney Feuerbach** stated because the board is talking about another reiteration of work. To your point are the revisions shown on the plan consistent with McPhails recommendations.

**Ms. Black** stated this board does not know and is seeking to confirm the representation.

**Attorney Feuerbach** stated that will be provided to you.

**Ms. Black** confirmed that Attorney Feuerbach is in agreement that the city engineer, Paul Keane, can assist in drafting the frame work of questions to submit to McPhail.

**Attorney Feuerbach** stated that he would be contacting McPhail ask him the question and provide the board with a letter.

**Mr. McCarl** stated the concern goes beyond the plan saying certain things will be done. The board is concerned that it be executed and done.

**Mr. Orlando** stated that is where the concept of the bond comes in.

**Attorney Feuerbach** stated his applicant is not in favor of the bond. But to resolve the issue, the cost of the work will be worked out and a figure will be provided to the board on a 1-1 ratio. It will be coupled with no certificate of occupancy until the work is done.

**Mr. Keane** stated 1-1 ratio is not standard. There is usually a multiplier to cover inflation, unforeseen circumstances. It is usually 15-20% higher.

**Ms. Black** clarified with Attorney Feuerbach that he is willing to take the plan back to McPhail, but unwilling to have the city engineer frame questions to take back to McPhail.

**Attorney Feuerbach** stated if the board would like to present something, to do it ASAP, but would not promise it will get a response. The applicant was expecting an endorsement tonight. Judge Long was expecting an endorsement tonight. The applicant will reserve his rights on that issue and prepare to be back on December 20<sup>th</sup>.

**Attorney Egan** stated that Judge Long didn't say he expected an endorsement of then plan, but for the board to consider the plan and consider what has been submitted. The judge did not order the board to do anything. He expects the board to make a reasonable decision on the information submitted. The board should not be acting under any misconception that the court ordered it to do anything tonight other than consider this. The board has the complete authority to make any decision it wants tonight as long as it is reasonable and based on the regulations and based on the information submitted to it.

**Ms. Black** we will be placing this on the agenda for December 20<sup>th</sup>. She stated her appreciation of Attorney Feuerbach willingness to work with the board. She asked if this was agreeable.

**Attorney Feuerbach** stated he would not say it was agreeable and has expressed what they will do.

**Ms. Black** stated that the matter will be placed on the December 20<sup>th</sup> agenda.

**Attorney Feuerbach** stated that is his understanding, but is not in agreement that is the board's choice. We have reserved our rights.

**Ms. Black** asked why he was not agreeable. She asked if there was another issue he would like to address to the board.

**Attorney Feuerbach** stated the applicant has reserved his rights and will be at the December 20<sup>th</sup> board meeting.

**Motion: To continue the ANR application; Eric J. Loiacano to divide two lots into three at 23 & 27 Silva Court (Assessor's Map 51, Lots 28 & 29) to December 19, 2012**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Joe Orlando**

**Vote: Approved**

- King Phillip Road Trust to re-divide four lots into three building lots and one unbuildable lot at **11, 13, 15 & 19 King Phillips Road** (Assessors Map 230, Lots 25, 26, 124 & 138).

**Presenter: Robert Bartagna, 19 Guinea Road, Statham NH**

**Mr. Bartagna** stated that property is divided into 4 lots. Three are in a trust. He stated he would like to sell two lots on either side of the third lot and they are sold as they are now privacy will be lost. In the process in doing this, one lot will be unbuildable.

**Mr. Cardemartori** stated that the 4 lots that are being divided, one will be unbuildable. There are no issues.

**Motion: The subdivision control law doesn't not apply to King Phillip Road Trust to re-divide four lots into three building lots and one unbuildable lot at 11, 13, 15 & 19 King Phillips Road (Assessors Map 230, Lots 25, 26, 124 & 138).**

**1<sup>st</sup>: Joe Orlando**

**2<sup>nd</sup>: Henry McCarl.**

**Vote: Approved 5-0**

- Paul M. Butman to adjust lot line between **14 & 21 Pond Road** (Assessor's Map 264, Lots 33 & 34).

**Mr. Cademartori** stated it is a simple lot line adjustment and there are no issues.

**Motion: The subdivision control law doesn't not apply to adjust the lot line between 14 & 21 Pond Road (Assessor's Map 264, Lots 33 & 34).**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Joe Orlando**

**Vote: Approved 5-0**

- Chris McCarthy to redivide **2-14 Bass Avenue** (Twinberry Lane Subdivision) into two pork chop lots and an unbuildable lot (Assessors Map 50, Lots 22, 23, 24, 25, 26 & 27).

**Motion: The subdivision control law does not apply to redivide 2-14 Bass Avenue (Twinberry Lane Subdivision) into two pork chop lots and an unbuildable lot (Assessors Map 50, Lots 22, 23, 24, 25, 26 & 27) with the condition noted on the plan that no development on Lot 1 can occur without variance from the Board of Appeals**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Linda Charpentier**

**Vote: Approved 5-0**

- StoneLeigh Gardens, LLC to divide one lot into six lots at **215 Magnolia**

**Motion: To continue StoneLeigh Gardens, LLC to divide one lot into six lots at 215 Magnolia Avenue (Assessors Map 207, Lot 17) to December 20, 2012.**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Linda Charpentier**

**Vote: Approved 5-0**

Meeting time reached 10:00pm

**Motion: To extend the Planning Board meeting for 30 minutes.**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Joe Orlando**

**Vote: Approved 5-0**

## **V. SITE PLAN REVIEW**

**In accordance with Section 5.8 of the Gloucester Zoning Ordinance, the Planning Board to review Site Plan Review Application submitted by Poole Construction Company for a proposed 7,782 s.f. retail building and associated parking areas at 210 Eastern Avenue (Assessor's Map 264, Lot 23).**

The matter has been continued to the next meeting of the board on December 20<sup>th</sup>.

## **VI. PUBLIC HEARINGS**

**In accordance with MGL Chapter 40A, Section 9, and City of Gloucester Zoning Ordinance, Sections 1.8.3 and 5.20, Gloucester Planning Board will hold a public hearing to consider the applications from Chris McCarthy for two Pork Chop Lot Special Permits to be located at 2-14 Bass Avenue (Assessors Map 50 Lots 22-29).**

### **Chris McCarthy, 17 Sleepy Hollow Road**

**Mr. McCarthy** stated the owner wants to move forward on the previously approved project at 2 Twin Berry Lane. It is 4 lots with 4 duplexes with a road with an S shape curve. Mr. McCarthy stated he wants to create two pork chop lots and go to the Board of Appeals for the third lot. The plan fits the neighborhood. The neighbors are in support of the plan. The plan was reviewed with the board. One of the concerns of Mr. Cademartori was to make sure there is enough room to back out. Lot one will have a turnaround. Each of the lots can be accessed through 40 feet of frontage.

### **Public Comment: None**

**Mr. Cademartori** stated this plan is in comparison to the approved subdivision. A similar common driveway configuration of the approved subdivision road was suggested and the problem that was identified was that the state took the frontage of a number of the properties. There was a problem with a common driveway due to the lack of existing frontage to create 4 lots. What remains is 87 feet which will allow for 2 pork chop shape lots that do comply with the dimensional standards of section 520 of the zoning ordinance. A lot of the discussion and concern of the prior iterations has been the access point at the intersection of 128. The goal of the development is that no one is trying to back out onto the street. There has to be a design ensuring there is access and egress from the site without backing on the street. One of the other considerations for the development of the lots is that there is a sewer easement. Mr. Cademartori asked for Mr. McCarthy to bring the plans into more detail.

**Ms. Black** stated concerned about the curb cuts and the number of them.

**Mr. McCarthy** stated certain restrictions can be placed on the project. He stated he will be

submitting a drainage and site plan.

**Mr. Cademartori** stated that the language has to be determined and clear or another plan presented. It makes more sense to do the plan that shows the development proposal within the pork chop lot.

**Ms. Black** stated she would be more comfortable with a specific plan.

**Mr. Cademartori** stated it does comply with the standards of the dimensional requirements'. One of the standards in the ordinance is that safe and adequate vehicular access can be provided to the lot. The sketch shows approximately 20 feet between the two driveways. It's a sketch of what it might be.

**Mr. McCarl** stated he does not see it as a problem because there will not be any additional cuts.

**Mr. Orlando** stated as long as it is built accordingly, he does not see a problem.

**Mr. Cademartori** stated it would be a deferred condition. Driveway access should be provided for each of the lots to ensure adequate turnaround. If the board wants to take an action on 4 lots, and then ask for a decision to be drafted for consideration at the next meeting that's reflective of the concern of ensuring that safe access can be provided to the two lots through a driveway design.

**Mr. McCarthy** said he would have a plan for the meeting on the 20<sup>th</sup> but would like to have a vote this evening.

**Motion: Allowance of the two pork chop lots special permits located at 2-14 Bass Avenue (Assessors Map 50 Lots 22-29) subject to conditions that will be drafted for the board review that will adequately address the concern of access to the two porkchop lots.**

The motion will address the Consent Agenda item and the Public hearing.

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Marvin Kushner**

**Vote: Approved 5-0**

## **VII. Other Business**

1. Request for Partial Release from Common Driveway Covenant by Windover ShoreCliff, LLC at 7 Boulder Avenue, Gloucester.

**Presenter: Charlie Wear, Meridian Associates**

**Mr. Ware** stated the request is for a partial release on units 3 and 4. A common drive has been constructed. There are some minor modifications that need to be completed. Units 5 & 6 are also part of the project and their certificates of occupancy will be held until the minor adjustments are completed.

**Mr. Cademartori** stated there are no issues with the request for partial release.

**Motion: Grant the request for a partial release for the Common Driveway Covenant by Windover ShoreCliff, LLC at 7 Boulder Avenue, Gloucester**

**1<sup>st</sup>: Joe Orlando**

**2<sup>nd</sup>: Marvin Kushner**

**Vote: Approved 5-0**

2. Corrective Construction and Proposed Construction Phasing at Magnolia Reach (AKA The Woodlands) Subdivision. Magnolia Reach Capital, LLC

**Presenter: Bob Forbes, Prime Engineering, Wakefield, MA.**

**Mr. Forbes** stated this subdivision project was approved by the Planning Board in 2006. Abbot owned the property at that time and attempted to build the project. Prime Engineering was called in to look at the work. There were deviations from what was designed; however, Abbot wanted a letter saying it was built as designed which was not issued. In 2010, Bill Ross of New England

Civil Engineering was hired as a third party reviewer to review the findings. Mr. Ross was in agreement with the findings and recommendations. Mr. Smith has since taken over the project and a new set of plans were put together to bring the project into compliance. It has been submitted to Gregg Cademartori & Bill Ross for review. The owner, Prime Engineering and New England Engineering are in agreement as to what has to be done.

**Bill Ross, New England Civil Engineering, Salem, MA.**

**Mr. Ross** stated he represents the City of Gloucester as a third party reviewer. There is a consensus as to what has to be done. The majority of the work falls into the storm water category. The post runoff direction was not correct because there weren't swales and the road shape was different. When the water got to the ponds, the ponds were not large enough. The overflow rear spillways were at the wrong elevations. Specific recommendations were made for the overall project and everyone is in agreement with them. The project is being proposed to be done in three phases and recommendations have been made for each phase.

**Mr. Cademartori** stated that as each milestone is reached in the project as proposed, a check point will be needed. A letter will need to be submitted by the resident engineer on site and there may also be some site visits. The next interaction with the board will be when there is a request for a release of lot.

The board extended the meeting until 10:45 pm.

#### VIII. ADJOURNMENT

**Motion: To adjourn**

**1<sup>st</sup>: Henry McCarl**

**2<sup>nd</sup>: Linda Charpentier.**

**Vote: Approved 5-0**

#### IX. NEXT MEETING

*Next regular meeting of the Planning Board December 20, 2012*

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