



**CITY OF GLOUCESTER
PLANNING BOARD
MEETING MINUTES
DECEMBER 20, 2012
7:00 P.M.**

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

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

Staff: Gregg Cademartori, Acting Community 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
- C. Approval of Planning Board Minutes of December 6, 2012

Motion: Approval of December 6, 2012 minutes

1st: Mary Black

2nd: Henry McCarl

Vote: Approved 4-0 with Karen Gallagher & Rick Noonan abstaining

Mr. Noonan stated for the record that two letters were submitted to the board; Harry Samolchuk, & Gary & Karina Roark regarding Silva Court.

II. PUBLIC COMMENT

Karen Ferante 27A Silva Court, Road Manager

Ms. Ferrante stated that she understands that her duplex may not even have been built if things had been done properly. There have been too many “ask for forgiveness that has occurred”. The fact that an ANR is even being discussed today is under contention. She does not understand why there is even a discussion of an ANR. Her main concern was what the plans are for the road. How is it going to be patched? Ms. Fernate read from “The 10 Essentials for a Good Road”.

III. CONSENT AGENDA - Continued 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).

Presenter: John Judd, Gateway Consultants

Mr. Judd stated that this project is to construct an office and retail business building that will house small businesses. There will be an upper and lower parking area with over 41 parking spaces. A revised plan has been submitted to address the entrance of the site. There is an easement on the property that will be used for access for long vehicles to make deliveries in back of the building. A plan for an enclosed drainage system and detention basin has been submitted.

Mr. Cademartori stated that the developer’s intent is to work with the existing uses on site. There has been discussion concerning the entrance way and access for circulation on the site. Alternatives have been proposed. There are no issues with the closed drainage

system. There is a need for Certification of Compliance for adequate lighting for the two parking areas, which can be addressed through the building permit process.

Mr. McCarl stated that review of the traffic flow may be needed because of the tight area and there are some spaces that appear as if they may introduce a hazard.

Mr. Judd agreed and indicated they could increase the size of planting areas to remove this concern.

Motion: To approve plan dated 12-6 12 submitted by Poole Construction Company for a proposed 7,782 square foot retail building and associated parking areas at 210 Eastern Avenue (Assessor's Map 264, Lot 23).

1st: Karen Gallagher

2nd: Linda Charpentier

Vote: Approved 6-0

IV. CONSENT AGENDA - ANR Applications

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

Attorney Peter Feuerbach, Rubin & Rudman

Attorney Feuerbach stated that McPhail Associates has provided a letter confirming that the drainage plan is consistent with and conformed to the recommendations that were made.

A performance bond of \$50,000 will be provided as assurance that the road work will be completed. RB Strong provided an estimate for the road and drainage work. The bond will be in place for the duration of the work. When the work begins the bond will be provided and when the work is completed the bond will be released. The planning director has received copies of the drainage plan which is consistent with McPhail Associates recommendations.

Mr. Cademartori stated that a letter Attorney Feurbach was received on December 19, 2012 and also from Thomas J. Fennick, P.E., identifying that McPhail believes that the revisions shown on the drainage plan dated 12-3-12 by Gateway Consultants LLC conforms to and is consistent with the recommendations made by McPhail on June 4, 2012.

Ms. Gallagher asked if the bond will only cover the period that the construction was taking place, not a remedy toward poor construction if there was some kind of failure of the road or drainage.

Mr. Cademartori stated that certification will be needed that the work done was installed and completed as designed.

Attorney Feuerbach stated that all the drainage work will have to be done before any permit was issued for a foundation to be put in.

Mr. Cademartori it may be done in conjunction.

Mr. Noonan asked Attorney Egan if the performance bond is consistent with Attorney Feuerbach statement.

Attorney Egan stated that there had not been a discussion when the bond would begin. The bond is to ensure that the remedial measures will be taken. It appears that the bond would be in place at the same time that the ANR is granted to ensure that the work is performed regardless of when the work begins. It is ensuring that the work does occur. Waiting until the work begins defeats the purpose of the bond. The applicants would have to provide certification that the work completed was in compliance with the plans before the bond is released.

Mr. Noonan asked the board, whether or not to make a condition statement with the approval of the ANR or seek another direction. He reminded them that the ANR can be conditioned and would mirror the settlement agreement.

Motion: Move that in accordance of the agreement of judgment entered by land court on September 13, 2011

- **Loiacano Company shall take the remedial measures as set forth in the McPhail Associates report as shown on the drainage plan prepared by Gateway Consultants LLC, dated February 10, 2011, revised December 3,**

2012. A certification stamped by an engineer stating that the work has been performed as outlined in the plan, shall be submitted to the planning board after the work has been completed.

- **Loiacano Companies shall complete all drainage work in remediation of drainage plans to maintain the integrity of the stone wall as described in the McPhail report and shown on the Gateway Plan**
- **Loiacano Companies shall post a performance bond securing the estimated value of drainage and road improvement in the amount of \$50,000. Such bond shall be filed with the Planning Board within 30 days of the date of the endorsement of the plan.**
- **All such work shall be completed prior to the application for or issuance of a Certificate of Occupancy. The bond shall not be released until an engineer certification and as built plan is submitted certifying that the drainage and road remediation is complete and all building permit conditions are complied with and conditioned upon the above.**
- **Endorse the plan titled “Plan of Land” prepared for Eric J. Loiacano dated October 29, 2009 with revisions through May 17, 2010 with the following language “Approval under the subdivision control law not required.”**

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1st: Mary Black

2nd: Marvin Kushner

Attorney Feurbach stated that the applicant has agreed to post a bond, however it is not known when the building permit will be filed. Tying the posting of the bond to the endorsement of the ANR plan is not appropriate. Work will not be started until the bond is posted. The motion needs to be modified.

Mr. Noonan stated the board appreciates the input. The board chooses how to amend motions.

Ms. Black asked if the request is standard in the industry. It could technically be an indefinite period of time before a bond being posted and work commencing.

Mr. Cademartori stated it is tied to anticipated construction. It is ensuring improvements if they are implemented. If no building permits are requested then no improvements will be made. It seems appropriate to tie it to the event.

Attorney Egan referred to the subdivision rules and regulation regarding performance bonds; it states that within 90 days of an endorsement of a definitive plan. If there is no construction ever to occur on this property it is still endorsing and creating a new lot. There is still the obligation for the roadwork.

Ms. Black stated that absent achieving an occupancy permit, the purpose of the bond is also to address companion issue of the road.

Attorney Egan stated that the bond is being submitted is for work agreed to and if remedial measures are not taken, the bond would be used to do the work

Ms. Black stated that the bond should not be just linked to the occupancy issue. The concern with the modification of the language is if it is just relative to the occupancy and the board has no control over when that might be achieved, it could be years before a bond is posted or work done.

Mr. Cademartori stated that there should be a timeline.

Attorney Egan stated that when endorsing the ANR, the bond is the board’s only enforcement.

Motion: To amend item 3: Loiacano Companies shall post a performance bond securing the estimated value of drainage and road improvement in the amount of \$50,000. Such bond shall be filed with the Planning Board within 90 days of the date of the endorsement of the plan or commencement of construction, whichever occurs first.

Item 4: All such work shall be completed prior to the application for or issuance of a Certificate of Occupancy. The bond shall not be released until an engineer certification and as built plan is submitted certifying that the drainage and road remediation is complete and all building permit conditions are complied with and conditioned upon the above.

Attorney Feuerbach asked to make a comment.

Mr. Noonan stated that the board is at a point of closure.

Attorney Feurbach stated the board has not done what has been asked for and the amendment is not agreeable. The bond should be tied with the issuance of the building permit.

Mr. Noonan stated he understands Attorney Feurbach position.

The board concurred that the motion is clear and acceptable.

1st: Karen Gallagher

2nd: Linda Charpentier

Vote: 5-0 with Henry McCarl abstaining.

- StoneLeigh Gardens, LLC to divide one lot into six lots at **215 Magnolia Avenue** (Assessors Map 207, Lot 17).

Presenter: Sean Malone, Oak Consulting, Newburyport MA.

Mr. Malone stated the site borders the south end of Wallace Pond. The site is 17 ½ acres. The applicant would like to create 6 lots. The site is in R30 district; each lot would be 2 acres of uplands and have 80 feet of frontage. Test pits were completed this summer with the Board of Health witnessing. The land is developable with on-site septic systems.

Mr. Cademartori stated he agreed with the representation. The lots are large. Because of the development pattern of this area it is appropriate to minimize the number curb cuts on the section of roadway. The city engineer is working with the applicant regarding the common driveways. This does meet the standard for an ANR endorsement

Motion: The subdivision control law does not apply to the division at 215 Magnolia Avenue (Assessors Map 207, Lot 17) to divide one lot into six lots at

1st: Mary Black

2nd: Marvin Kushner

Vote: Approved 6-0

V. PUBLIC HEARING

In accordance with MGL Chapter 40A, Section 9, and City of Gloucester Zoning Ordinance, Sections 1.8.3 and 5.21, the Planning Board is to consider the application from Stoneleigh Gardens, LLC for two Common Driveway Special Permits at 215 Magnolia Avenue (Assessors Map 207, Lot 17). Rick Noonan opened the public hearing.

Presenter: Sean Malone, Oak Consulting Group, Newburyport MA.

Mr. Malone stated the request is to create common access drives to serve the two northern lots. A second common access drive would serve the next two lots. There are three access drives in total. Each lot can be accessed from Magnolia Ave. The common access drives are requested to minimize the access points onto Magnolia Ave and to minimize disturbance of the land. The northern two lots will be access via a driveway, 16 feet wide directly from Magnolia Ave. Each house will be serviced by separate water services, electric, telecommunications, & septic system. The site is within the watershed protection overlay district. A majority of the development is outside the watershed district. A discussion with Mr. Keene brought up questions about the grading of the lots, the buildings and drainage from driveway. The second drive will serve lots 3, 4, & 6. These lots will have separate septic, water, and electric. A fire hydrant will be added to a water main off Magnolia Ave.

Mr. Cademartori stated concern regarding the width and length of the second driveway. It could cause issues for certain type's vehicles ability to turn around. The width may be limited by snow.

Part of the structures may be within the watershed and may require a special permit. The primary concern is impacts to ground water or surface water.

Motion: To continue the application from Stoneleigh Gardens, LLC for two Common Driveway Special Permits at 215 Magnolia Avenue (Assessors Map 207, Lot 17) to January 17, 2013.

1st: Mary Black

2nd: Linda Charpentier

Vote: Approved 6-0

VI. Other Business

CPA update

Ms. Gallagher reported that City Council approved all the projects and have funded on the proposed requests.

2. Announcements

Mr. Cademartori reported that Beauport LLC will not be ready for the January 3, 2013 meeting. There may be a special meeting with P&D for the second week in January.

PIRC

Mr. McCarl reported that regular meetings are held. A meeting will be held in the spring with an updated report.

Harbor Planning Commission

Mr. Noonan reported that a 2nd meeting was held. There is a panel of 11 with a good mix of members. Paul McGearry is Vice Chair. The first few meeting will include presentations to gain an understanding of issues on the harbor. Ocean Alliance presented at the last meeting. This will also help identify the types of businesses that may be interested in Gloucester as a port. The hope is to have a revised plan that may take 12-14 months. The next meeting is January 21, 2013.

VII. ADJOURNMENT

Motion: Meeting adjourned

1st: Henry McCarl

2nd: Karen Gallagher

Vote: 6-0

VIII. NEXT MEETING

Next regular meeting of the Planning Board January 17, 2013

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