



CITY OF GLOUCESTER
PLANNING BOARD
MEETING MINUTES
December 1, 2016
7:00 P.M.
Kyrouz Auditorium
9 Dale Ave, Gloucester
Richard Noonan, Chair

Members Present: Richard Noonan, Chair, Mary Black, Co- Chair, Joe Orlando, Doug Cook ,
Ken Hecht, Shawn Henry, Henry McCarl
Staff: Gregg Cademartori

I. BUSINESS

- A. Public Comment - None
- B. Review of Outstanding Unapproved Minutes

Motion to approve the November 17, 2016 was made by Henry McCarl, seconded by Mr. Hecht and unanimously approved.

II. CONSENT AGENDA

Planning Board to consider the *Approval Not Required* Plan submitted by Blue Sky and Sunny LLC to create 1 new lot at **5 Westbrook Lane** (Assessors Map 198, Lot 4). *Continued from the November 17th meeting.*

Mr. Cademartori reported two site visits have been held to discuss the frontage issue. The newly created lot has a feasible access. There will be a revision for the common driveway. The lot has adequate access. Attorney Joel Favazza explained that the submitted plan needs to be corrected as it is off by a few feet. The change has no bearing on the request.

Motion that the subdivision control law does not apply for the Approval Not Required Plan submitted by Blue Sky and Sunny LLC to create 1 new lot at 5 Westbrook Lane (Assessors Map 198, Lot 4) was made by Mr. Henry, seconded by Mr. Orlando and unanimously approved.

III. PUBLIC HEARINGS

In accordance with the City of Gloucester Zoning Ordinance, Sections 5.10 and 3.4.2 The Planning Board to review the following application:

Christopher and Carleen Melanson for a Special Permit to construct a new home located within the Water Protection Overlay District at **12 and 12R Cole Avenue** (Map 213, Lots 24 and 25). *Continued to the December 15, 2016 Planning Board meeting.*

Mr. Cademartori stated that Mill River Consultants has requested a continuance.

Motion to continue the Special Permit request to construct a new home located within the Water Protection Overlay District at 12 and 12R Cole Avenue (Map 213, Lots 24 and 25) was made by Mr. McCarl, seconded by Mr. Orlando and unanimously approved.

II. OTHER BUSINESS

1. Discussion of Planning Board Procedures regarding Major Project Special Permits – Zoning Ordinance Section 5.7.4 Planning Board Review

Mr. Cademartori stated that the board has had a fair amount of discussion about review process and procedures. Mr. Orlando stated that throughout the application process regarding the Mayflower project he was not comfortable about the interpretation of the board's authority in making a recommendation. He felt the board was given incorrect and misleading information. Mr. Orlando also stated he researched the ordinance and believes that the board is not limited to just looking at the project but is obligated to consider the effect on the city, its social economic needs, and the fiscal impacts. He reiterated that he felt that the Mayflower Project is a negative effect on the community. He stated that he believes that last week's vote was based on information that was legally incorrect. The city could be open to litigation.

Mr. Hecht stated that he feels that the board should spend its time cheerleading for the removal of the 1500 foot law.

Mr. Orlando concurred with Mr. Hecht but reiterated that the board made a decision on inaccurate information. If the City Council gets rid of the 1500 foot rule then the issue will be resolved for this project. The interest of the community as a whole should always be considered.

Ms. Black stated concern regarding the variable of time. If a special permit application is received and it's reviewed for fiscal impact- it's relative to what? If this is going to be our guidepost the time of the fiscal impact has to be evaluated to what time. How far do we look and who determines that? Ms. Black stated that she does not think the board made the wrong decision on the recommendation. 1.8.3 is subject to interpretation.

Mr. Hecht stated that in real estate the net present value is what matters; what is it worth today. The potential fiscal impact should be over a length of time.

Mr. McCarl concurred with Mr. Hecht stating that there is no way to predict the future; how do you look at the net benefits of the future by using current costs. It becomes difficult to predict over a longer amount of time.

Mr. Cademartori stated to Mr. Orlando that he has made his interpretation of the ordinance very clear and other attorneys if asked could have their own interpretation of the same thing. The city solicitor did not concur with Mr. Orlando's interpretation but said that the ordinance is fairly broad. He has not been given the specific facts of the comparison that was made. The concern is; zoning cases are based on the evidence that is presented before the board. What is the evidence? Overall there is a potential for a lower positive fiscal impact for the city. It is fewer jobs, less revenue, but still positive. It is a leap to say that one application that has applied under the ordinance and received a non-opposition letter from the city to proceed, that it constitutes a negative impact on the city because it is hypothetical at that point in the process. There is a fair and equal treatment order in the zoning ordinance. Each applicant has the right to apply and be measured against the standards in the ordinance. The fact is, is that they applied for an application and made representations of what they would provide for jobs. There are a lot of variables to base a negative finding on. Mr. Cademartori stated his concern to Mr. Orlando that he would present to City Council his interpretation that the board was given incorrect information regarding the ordinance and that an action should not have been taken.

Mr. Orlando stated that he is operating on the assumption that the information that was given was in good faith.

Mr. Henry stated that he disagreed with Mr. Orlando. He stated he sought council from a land use attorney, the city's chief administrative office, and Paul Lundberg. Legal opinions are just that; opinions. He stated that the constant thread throughout the conversations that were held is that it is the board responsibility to treat each applicant fairly. As a matter of law applicants are entitled to fair and equitable treatment. To do anything else would make it unfair and inequitable and the board would not be doing its job. The state law does not have a 1500 foot buffer between facilities. They have a specific 500 foot buffer for other types of buildings.

Mr. Hecht stated that the ordinance can be interpreted in many ways. The City Council should be approached in a positive way.

Mr. Noonan stated that if the board did not recommend the proposal after all the revisions it made Mayflower there would have been a bigger problem. The board had to look at each application independently. Mr. Noonan stated to Mr. Orlando that when he speaks to the City Council he should go as a citizen and not as a Planning Board member. The recommendation to the City Council should be presented as such to them and not presented as if there was a defect in the process.

Mr. Orlando stated that he respects everyone's opinion and that my interpretation will not impugn any one of the board members.

Mr. Henry stated that he felt he was accurately informed and casted his vote with proper and accurate information.

Motion that the board reaffirms the vote from the last meeting and was given proper and adequate information to make its recommendation to City Council was made by Mr. Henry, seconded by Mr. Hecht and approved 6 in favor 1 opposed.

2017 Planning Board meeting schedule

The board discussed the 2017 meeting schedule and agreed to meet on Thursdays at 6:00 p.m. on the 1st & 3rd week each month.

CPA Update

Mr. McCarl stated that a hearing will be held on December 8th and the 2nd applicant will be heard two weeks later.

East Gloucester Zoning update

Mr. Cademartori reported that there is a meeting next week to work towards more concrete proposal. The next meeting may be a joint meeting with the City Council regarding the Fuller mixed use venture.

ADJOURNMENT-

Motion to adjourn was made by Mr. McCarl, seconded by Ms. Black and unanimously approved.

III. NEXT MEETING

Next regular meeting of the Planning Board December 15, 2016 (may be subject to change).

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