

IPSWICH PLANNING BOARD MEETING
Thursday August 27, 2009, 7:30 p.m.

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the Ipswich Planning Board was held on Thursday, August 27, 2009 in Room A, 2nd floor of Town Hall. Board members Jim Manzi, Bob Weatherall, Cathy Chadwick and Brian Hone attended as did Associate member, Suzanne Benfield. Planning Director Glenn Gibbs also attended.

Jim Manzi called the meeting to order at 7:35 p.m.

CITIZENS' QUERIES: None.

FORM A

89 Argilla Road: Request by Howard B. Hodgson and Joseph A. Brear Jr., for Form A approval to adjust a lot line between 85 and 89 Argilla Road (Map 54 B, Lots 13 and 14). The 1.6 acres to be joined with Hodgson's property at 89 Argilla will be taken from the 95-acre parcel at 85 Argilla.

MOTION: Manzi moved to find that subdivision control law does not apply. Weatherall seconded. The motion passed by a vote of 3 to 0.

10 Fox Creek Road: Request by Vladislav Kasarda for Form A approval to divide one lot into two at 10 Fox Creek Road (Map 44, Lot 8). Larry Graham, H.L. Graham Associates, explained that both wooded lots would be buildable, soil tests had been performed, concept plans with houses and septic systems were in process and the wetlands had been delineated.

MOTION: Weatherall moved to find that subdivision control law does not apply. Hone seconded. The motion passed by a vote of 3 to 0.

PUBLIC HEARINGS

Proposed Zoning and Land Use Amendments for Fall 2009 Town Meeting

Chairman Manzi read the public notice for the hearing of the two zoning articles and opened the hearing.

Sustainable Development Measures

Glenn Gibbs discussed the background of the proposed amendment, explaining that the impetus came in part from the Town's participation in a MAPC grant to develop a stormwater bylaw (adopted in 2008) and Low Impact Development (LID) techniques. The proposed article introduces LID measures in certain sections of the bylaw; minimizes the creation of additional impervious surfaces and requires newly constructed municipal buildings to meet green building requirements.

Keri MacRae, 31 Heartbreak Road asked what types of projects the bylaw would apply to. Gibbs answered that it would depend on the project and the type of use. MacRae asked if screening was a part of the regulation. Weatherall said that screening would apply for most commercial and subdivision projects, but was not specifically related to sustainable measures.

Gibbs explained that the changes to the off-street parking and loading regulations would give the Planning Board a bit more flexibility by allowing a parking reduction of up to 50%. Weatherall asked if the parking reduction would apply to schools. Manzi said that the Town doesn't have zoning authority over a school except as applies to dimensional requirements. Weatherall asked why the LEEDS standard was not set higher. Gibbs explained that setting the bar lower would encourage efforts and mitigate fiscal concerns.

Elizabeth Krafchuk, 10 Heartbreak Road, said that she applauds the effort to adopt LEEDS standards.

Miscellaneous Changes

Gibbs explained that the purpose of the article was to address deficiencies or ambiguities in the zoning bylaw that arise during the course of its application.

Keri MacRae, 31 Heartbreak Road, asked about the change relative to private guest houses. Gibbs explained that the Town is challenged with keeping use of guest houses consistent with the bylaw. The proposed amendment would establish a guest house as a separate use and require a special permit rather than allowing by right MacRae then asked how one distinguishes a guest house from other types of structures such as a screened house with a futon. Discussion ensued. Manzi and Gibbs agreed to review the language of the amendment. Weatherall commented that a way to distinguish a guest house from another type of structure is plumbing

Keri MacRae, 31 Heartbreak Road, asked if the proposed increase in the rear setback requirement for the HB District applied to accessory uses. Gibbs answered that the changes only apply to principal uses. He said that the Board could review for accessory uses in the future. MacRae said that a greater buffer zone and additional screening requirements would be desirable too.

MOTION: Hone moved to continue the public hearing to the next meeting. Weatherall seconded. The motion passed by a vote of 3 to 0.

Proposed Designation of Five Town Streets as Scenic Roads and Proposed Revisions to the Town's Scenic Road Bylaw.

Chairman Manzi read the public notice and declared the hearing open.

The proposed roads are: Linebrook Road from Howe Street to Leslie Road, Mile Lane, Old Right Road from Route 1 to Linebrook Road, Paradise Road and Plains Road.

Gibbs explained that the 1974 bylaw is pursuant to the state statute. Planning Board review is limited to stone walls and trees within the right-of-way.

[Chadwick arrived at 8:29 p.m.]

Keri MacRae, 31 Heartbreak Road, asked what the standard width of a right-of-way is. Gibbs replied that the typical width in Ipswich is 40 feet.

John Sultzbach, 18 Plains Road, said that he retains the wall on his property but who is responsible? Weatherall said that there is no provision for maintenance. The resident can maintain the wall as is. Gibbs added that any other changes to the wall beyond maintenance would require

the owner to obtain Board approval. Sultzbach asked what happens when two parcels are divided and a stone wall is breached for access to one of the parcels. Gibbs said there is a mechanism by which the Town reviews a request for access under those circumstances. However, the stone wall in question must be within the Town's right-of-way in order for the Town to have jurisdiction. Manzi said that interested parties can file a complaint with the Planning Department and the Department of Public Works if they believe a stone wall within the right-of-way has been altered without Board approval.

Caroline Wear, 16 Plains Road, expressed concern about whether owners would have financial responsibility.

MOTION: Hone moved to continue the public hearing to the next meeting. Weatherall seconded. The motion passed by a vote of 4 to 0.

OTHER BUSINESS

Requested: Modifications to Special Permit and Site Plan Review Approval for 2 Brewery Place.

Larry Graham, H.L. Graham Associates, appeared before the Board. He said that Mercury Brewing was requesting two minor modifications. The first modification requested was replacing bollards along the angled parking places with granite curbing because of maintenance and appearance issues. Hone said that the curbing was more in line with what the Board prefers. The second modification requested was approval to install wall-mounted motion detector lights on the back of the building to light a dark unattended area. Manzi asked the purpose of the tanks located on the plan. Graham said that two were for the brewing process and one was a propane tank. Manzi expressed concerns about safety in regards to the propane tank. (NOTE: It was later revealed that the tank will contain CO₂, not propane, and thus does not pose a safety issue). A discussion ensued. It was agreed that safety precautions should be put in place.

MOTION: Hone moved to consider the proposed modifications as minor. Chadwick seconded. The motion passed by a vote of 4 to 0.

MOTION: Hone moved to approve the modifications as proposed on the plans subject to the applicant providing an appropriate solution to address the safety concerns. Chadwick seconded. The motion passed by a vote of 4 to 0.

Discussion: Informal presentation of additional multi-family options for 88 High Street

Larry Graham, H.L. Graham Associates and Tom Eaton, owner, appeared before the Board. Manzi explained that an apartment building currently exists on the property. The owner wants to add additional multi-family buildings and provide the affordable unit that is owed to the Town. Graham said that both proposals being shown would require a Special Permit and that footnote 11 to the Table of Dimensional and Density Regulations applies. The first preference that was shown provided a total of 11 units. Eaton would pay \$10,000 with the application to cover the prior Special Permit approval obligation requiring the existing five-unit building to contain one affordable unit. He would also make one of the 6 new units affordable. The second preference discussed would provide a total of 12 units. Eaton would pay \$10,000 with the application to satisfy the Special Permit obligation previously mentioned and provide one additional affordable unit each in the existing 5-unit building and the proposed 7-unit development. Other options had been discussed with Manzi and Gibbs. Gibbs pointed out that both options presented would involve subdivision of the property. Manzi said that he had no problem with the subdivision and

could support either preference. The second preference provides an extra affordable unit but increases the density. Graham asked if both preferences meet the affordability guidelines. Discussion ensued concerning the applicability of footnote 11. Weatherall expressed concerns about egress and traffic. He said that he supports less dense options.

CONTINUED PUBLIC HEARING

Requested: Special Permit to allow conversion of an existing garage into a dwelling unit at 15 Currier Park.

Donna Farina, owner of the property and her daughter, Mary Anderson, appeared before the Board. The Board was provided elevation drawings and revised site plans depicting parking areas as had been requested. Manzi asked if one of the vehicles used by the owner's family was large. Farina said yes and that the vehicle is currently being parked in the apartment's proposed parking area but that in the future, the vehicle would be parked on the Currier Park side in the parking area to be created there. Gibbs said that the plans show that the vehicles don't fit into that parking area on Currier Park without encroaching into the right-of-way. Farina said that she could move the fence back. Hone noted that the neighbor's concerns centered around parking and vegetative management plans. Which trees would be removed? No landscaping is shown on the plan. Farina said they would be willing to provide a landscaping plan.

Patricia Burke, 117 High Street, Unit 14, said that she can view the back of the garage from her residence. She said that based on what she sees in the plan, the fence and the trees will have to come down. Because of that and because of the cars coming and going, she said that her property would be devalued.

Ted Manning, 117 High Street, Unit 12B, expressed concern about the proposed apartment.

Michael Cocoran, 117 High Street, Unit 14, said that regarding the improvements, it is more important to maintain privacy and limit noise than to allow the additional dwelling unit.

Farina said that she had never received any complaints regarding parking from the Town. Manzi said that he was sympathetic to neighbors concerning the vegetation. He'd like to see a vegetative management plan that includes which trees will be removed. Hone suggested reducing the parking next to the proposed apartment to 1 car parking. Weatherall said that he doesn't support the project because the entire building will have to be replaced and it doesn't comport with Section V, footnote 23. The spirit of the bylaw is meant to preserve the existing structure. He said that this application could only happen if the existing structure was torn down. Hone didn't agree and said the building would resemble other buildings in the area. Weatherall suggested that prior Planning Board applications involving footnote 23 were all historic structures. Benfield said the applicant should provide a vegetative management plan and revised plans showing the proposed roofline and the ability to keep the existing roof line. She said that simple reading of the footnote might allow this project. Weatherall said it is replacement versus renovate.

MOTION: Hone moved to continue the public hearing to the next Planning Board meeting. Chadwick seconded. The motion passed by a vote of 4 to 0.

A break was taken at 10:10 p.m.

Manzi called the meeting to order at 10:15 p.m.

PUBLIC HEARINGS

Heartbreak Farm Definitive Subdivision, 18 Heartbreak Road

Chairman Manzi read the public notice and opened the hearing.

Applicant, Ed Fagan, along with his attorney, Richard Kallman, and his engineer, Larry Graham, appeared before the Board. Manzi gave some legal history on the application which was remanded to the Board following a Supreme Judicial Court (SJC) decision which ruled that the Board must review the application anew after the previous approval was voided due to insufficient Planning Board member attendance. No discussion is required concerning the zoning freeze according to the SJC ruling.

Kallman said that there were 29 hearings over two years previously. Going forward there must be consistent Planning Board attendance and, the waivers that were granted must be examined again. He said that there were extremely detailed analyses done by three different engineering firms so further review might be limited since some matters don't need to be revisited.

Graham addressed the Board, giving an overview of the proposed 7-lot subdivision on the 23.5 acre property. Lots would vary in size from 1 acre to 6 acres with 59% of the total area preserved as a conservation area. There would be 1 acre of drainage easements and 1.5 acres of canopy restrictions. The proposed Blue Spruce Drive would extend 750 feet with a proposed width of 22', a sloped granite curb and a sidewalk on the south side. On-site septic would serve the lots, along with town water. One fire hydrant and two street lights are proposed. He said that the on-site stormwater drainage systems, including catch basins, sumps, hoods and subsurface water quality units, meet newer LID proposals. Dwarf evergreens will be planted in the cul-de-sac island and 25 street trees will be installed. He listed the waivers, saying that for the first waiver, additional canopy area was being proposed for lots 1, 2, 3 and 4. There was no discussion of waivers #2, #3 and #4. He said that for waiver #5, they were building the road for 25 mph but posting it for 20 mph. Manzi asked if there wasn't a question concerning the length of the cul-de-sac and why no waiver is required for this. Graham said that the Board should refer to his 8/26/09 letter included as Exhibit B. Heartbreak Road is a low volume road used primarily for access rather than serving as a conduit for through traffic. Hone said that it didn't seem appropriate to evaluate traffic on a weekday in February since it doesn't take into account beach traffic. There was no discussion of waiver #6. Graham said that waiver #7 was ruled on by the Supreme Judicial Court (SJC) where their concern was the interpretation of the word "handle" as used in the context of the proposed stormwater system handling 100-year flood events. Graham said that water run-off volumes would be no greater after development and that their plan includes catch basins that will address run-off that currently flows into Heartbreak Road from the existing driveway. Manzi asked if both the rate and the volume of flow would be addressed. Graham said they both would be reduced. Hone asked that if the standard states that run-off volume can't be greater after development, do any existing problems get resolved? Fagan said that Graham's proposal will correct them. There was no discussion of waivers #9-11. Concerning waiver #12, Manzi asked how Graham planned to mitigate the required two-foot separation between the high groundwater table and the bottom of the detention pond. Graham answered that there will be four catch basins, 4 sumps. He believes that maintenance will be handled by the development's Homeowners Association.

Fagan addressed the Board on the peer review process. He said that the proposed development had many active approvals including the Board of Health and DEP, among others. A request for the renewal of the Conservation Commission's Order of Conditions is pending. Referring to his letter to the Board dated August 25, 2009, he asked that the Board consider not requiring peer review of the three items he had listed in the letter. Manzi replied that he could support not requiring the first two, but that best engineering practices could have changed since the last peer

review occurred. John Ofilos, Tinti, Quinn, Grover and Frey, an attorney representing Elizabeth Krafchuk and the Buttonwood Estate Trust, said that stormwater is a major issue on this property and that abutters objected to the measurements. Manzi said that abutter will have an opportunity to dispute the calculations. Kallman said that the calculations and measurements as outlined in Fagan's letter were agreed to by all three engineers who reviewed them. Chadwick asked if the subdivision laws had changed. Gibbs said no substantive changes had occurred.

Ofilos asked for clarification on the start date for the 90-day constructive approval period. Manzi said it was August 6th, 2009. Ofilos said there is a problem with the 325' waiver and noted that the SJC found for a 220' sight distance. He asked the Board to review the court judgments on findings of fact. He said the court found that the road is not low density, but is a "collector" road. SJC found that traffic is highest in the summer, whereas the applicant's radar test was done in the winter. Manzi asked if Ofilos intended to present testimony of a traffic engineer. Ofilos said maybe. He handed the Board copies of the SJC decision. Chadwick asked if Ofilos' clients would do their own study in the summer. Ofilos said maybe.

Elizabeth (Liz) Krafchuk, 10 Heartbreak Road, said that local residents had conducted an informal traffic analysis and found the average speed was about 40 mph.

Ofilos said that stormwater is a major problem and that the applicant's engineer admits that the stormwater management plan cannot hold a 100-year storm's run-off. The SJC decision found problems in Graham's calculations with respect to stormwater and water table height. Stormwater will have a detrimental effect on neighbors. In court, the applicant's engineer refused to testify that the intersection was safe. Manzi asked if reducing the canopy cover to increase the catch basin size would be preferable to Ofilos' clients. Ofilos said that removing trees would probably also increase the amount of run-off.

James Teele, 71 Argilla Road, said that the consequences of approval are unforeseeable and that he agrees with Ofilos.

Dorothy Johnson, 15 Heartbreak Road, submitted a photo from Argilla Road looking toward the proposed subdivision road that was supposed to demonstrate a blind curve obstructing the view of the intersection. She said it raises the issue of the hole in the culvert near 8 Heartbreak Road and concerns about the ability of the road to handle more traffic.

Keri MacRae, 31 Heartbreak Road, that there are new developments since 2003. Heartbreak Road consistently floods since the Mother's Day storm of 2006. She asked the Board to consider current conditions when reviewing stormwater management plans. Manzi said that the Board has to limit its decision to whether development increases stormwater run-off. MacRae said that traffic has increased since 2003 and that YMCA development will add more traffic.

Bob Pappas, 22 Heartbreak Road, said that run-off from the current property is quite bad.

Elizabeth (Liz) Krafchuk, 10 Heartbreak Road, said that the roads are scary in that neighborhood. She is concerned about septic draining into her property and into her well. She urged the Board to consider global warming effects.

Manzi set the date for a site visit on September 3 at 6:00 p.m. Ofilos asked if abutters can be present. Manzi answered that site visits are open to the public. Kallman said that the applicant will not allow the public onto his property.

MOTION: Weatherall moved to continue the public hearing to the next Planning Board meeting. Hone seconded. The motion passed by a vote of 4 to 0.

CONTINUED PUBLIC HEARINGS

Vegetative Management Plan: Sagamore Road, Candlewood Road, Fellows Road and Lakeman's Lane.

At the request of Tim Henry, Director of Utilities for the Town of Ipswich, the Planning Board agreed to continue the public hearing seeking Scenic Road approval to remove dead or compromised trees within the right of way along the aforementioned roads that may impede utility lines.

MOTION: Manzi moved to continue the public hearing to the next Planning Board meeting. Chadwick seconded. The motion passed by a vote of 4 to 0.

Vegetative Management Plan: Waldingfield Road.

At the request of Tim Henry, Director of Utilities for the Town of Ipswich, the Planning Board agreed to continue the public hearing seeking Scenic Road approval to remove dead or compromised trees within the right-of-way along the afore-mentioned road that may impede utility lines.

MOTION: Chadwick moved to continue the public hearing to the next Planning Board meeting. Hone seconded. The motion passed by a vote of 4 to 0.

OTHER BUSINESS

Approval of Minutes: 8-13-09

MOTION: Chadwick moved to approve the draft minutes of the August 13, 2009 meeting. Weatherall seconded. The motion passed 4 to 0.

ADJOURNMENT

MOTION: Hone moved to adjourn. Chadwick seconded. The motion passed unanimously.

The meeting was adjourned at 12:30 p.m.

Respectfully Submitted,

Suzanne Benfield, Brian Hone and Kathy Connor

The Planning Board approved these minutes on September _____, 2009.