

# APPROVED

## MEETING MINUTES

Tuesday, December 16, 2021 Woburn Planning Board Meeting | 7:00 p.m.

*\*\*Meeting held virtually via Zoom Platform\*\**

Chair Kevin Donovan called the meeting to order at 7:00 pm and asked Planner Karen Smith to call the roll.

Ms. Claudia Bolgen, Mr. Bob Doherty, Mr. Jim Callahan, Ms. Carolyn Turner, and Chair Kevin Donovan were in attendance; Mr. Dave Edmonds and Mr. Michael Ventresca were absent. Planning Director Tina Cassidy and Planner Karen Smith were also in attendance.

Cassidy stated the meeting was being recorded by both video and audio.

**PUBLIC HEARING: LEGACY LANE SUBDIVISION: Modification request to retain the roadway as a private way, to be maintained by the private homeowners' association, rather than have the road become a public way maintained by the City after completion of construction / Frank Michienzi**

Cassidy provided background on the subdivision that was approved approximately five years ago with the original intention of becoming a public way upon completion. Outstanding work items remaining incomplete at this time include: restoration of a portion of Middle Street in accordance with Condition #4 of the Planning Board's approval; submission of tree belt easement document and confirmatory deeds affecting lots #2, #3 and #4, in accordance with Condition #6 of the approval; and revisions to the existing Homeowners' Association (HOA) document, to clarify maintenance responsibilities for the emergency access easement required by Condition #2. Cassidy stated when the developer submitted a draft As-Built plan, which was deemed to be acceptable on initial review, he inquired about the necessary steps he would need to complete to request the roadway remain in private ownership. Cassidy added this request would be a change to the assumptions on which the Board's original approval was granted, so it constitutes a modification of that approval requiring this public hearing.

Attorney Joseph Tarby, of Rubin and Rudman LLC, representing the developer Mr. Frank Michienzi, summarized recently submitted documents including the confirmatory deeds which reference the tree belt easement; an amended Homeowner's Association document which states the obligations they are committing to include maintain, repair, and replace the Legacy Lane private roadway including, not limited to, sidewalks, curbing, all utilities therein, street lights, snow plowing, and sanding; also provide for ongoing maintenance repair and funding of the storm water management components within the subdivision in accordance with the approved plan; and provide for the maintenance and upkeep of the easement area described in the emergency access agreement (recorded at the Registry of Deeds at Book 743898 Page 415). Tarby continued to state that the HOA will provide for the installation, maintenance, replacement, and repair of the drainage systems and emergency vehicle turnaround as set forth in the confirmatory drainage and access easement agreement and the compliance with the tree belt easement affecting Lots 2, 3 and 4 as shown on the plan. The developer will also install and maintain a private street sign to the existing street sign post and maintain all other required street and regulatory signs. In addition to other details, Tarby stated the HOA will maintain all sidewalks, curbing, all utilities therein, street lights, snow plowing and sanding. Tarby noted his client understands he must comply with the appropriate signage regulations.

Cassidy stated departmental comments and questions from various City departments to which the modification request was forwarded included: (a) the cost of operating and maintaining the street light; (b) street signage must be compliant, (c) current conditions including orange cones with yellow tape in the roadway right-of-way; (d) responsibility for, and location of, trash pickup which will be done by the City at the nearest public way intersection, in addition to who will be responsible for snow plowing. Cassidy noted one additional concern from the DPW Director is the outstanding issue of paving and blending the portion of Middle Street that must be done under the watch of the developer's engineer to ensure they do not create any puddling issues in addition to complying with the Americans with Disabilities Act and corresponding guidelines to ADA access at the

handicapped ramps in the sidewalks. Cassidy stated she visited the site on December 13, 2021 and the plastic barriers and yellow tape were still in the right of way and she also observed non-compliant signage at the site. Cassidy stated Michienzi's intent is to prevent the parking of unauthorized vehicles on Legacy Lane on a permanent basis.

Tarby stated the plan will be revised to reflect appropriate compliant signage.

Seeing no further questions from the Board, Donovan opened the PUBLIC HEARING and asked if any audience members wished to speak. Cassidy provided instructions as how to use the 'raise hand' function in a Zoom meeting.

Ms. Nancy Brosnan of 73 Middle Street, Woburn expressed her concerns regarding the appearance of the cones and yellow tape at the entrance to Legacy Lane and feels it has decreased her property value. She stressed it has been over two years since construction commenced. Brosnan added she is more concerned about the "construction zone" appearance of the site than she is about the signage and/or whether or not it is a private way.

Bolgen inquired of Tarby as to whether his client's intent to modify the approved plan to become a private way in order to have more control over items such as traffic cones, yellow tape, and who may park there. Bolgen questioned what is in the interest of and benefit to the public in modifying the approved plan to make it a private way versus a public way and is there a detriment to the public interest in either option. She questioned the cost versus the benefit of allowing the developer to maintain the way as private.

Tarby stated if the way remains private, it is one less road for the City to maintain, plow, and perform maintenance and repairs. Tarby stated the approved plan will be revised to include all signage that will be in compliance with all zoning regulations including height, location, etc.

Bolgen inquired if the orange cones and tape are creating a mechanism to control access to the property in perpetuity.

Cassidy stated the Board may be able to require the cones and tape be removed as they narrow the width of the pavement that was required on the approved plan. She also questioned if a condition could be imposed that would preclude the developer from ever installing or erecting barriers in the private roadway to prevent this practice in the future.

Bolgen expressed her concern regarding the mechanism for future enforcement of a condition prohibiting barriers if the developer is granted the modification to have the street remain a private way. She would like a definitive answer to the issue of enforceability from the City Solicitor.

Tarby stated the developer's family members own and occupy all three houses on the street and he would like to prevent cars and trucks such as landscapers, delivery vehicles, etc. servicing non-residents from parking on Legacy Lane. He agreed the City Solicitor's opinion regarding the enforcement would be helpful in reaching a decision.

The Board continued to discuss the neighbor's concern and the intent of the developer as their intent is to come to a resolution that would be conducive to all parties. The Board members emphasized the importance of receiving the City Solicitor's opinion as to the enforceability of any condition they list in the approval of the modification if that is the decision they choose to make, specifically, the enforceability to remove an obstruction, such as a barrier, if one is erected in the street of a private way.

Callahan suggested a letter be sent from the Planning Board to the developer requesting all signage in the roadway and any additional blockades, such as orange cones and yellow tape, be removed within a certain time period until the issue is resolved.

Cassidy recommended the Public Hearing be continued to Tuesday, January 11, 2022 at 7:00 pm. She will request an opinion from the City Solicitor regarding the enforceability issue regarding barriers in the roadway; she will request the developer's engineer show all text and location of signage be added to the As-Built plan and confirm

compliance. Cassidy will send a letter to the developer stating the barriers that obstruct the street need to be removed within 24 hours of the receipt of the communication.

Motion by Bolgen to continue the PUBLIC HEARING to January 11, 2022 at 7:00 pm and request an opinion from the City Solicitor and send a communication to the developer as outlined by Cassidy;  
Seconded by Doherty;

No discussion on the motion.

Roll call vote on the aforementioned motion:

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Aye  
Motion carried, 5-0-0.

**PUBLIC HEARING: PROPOSED ZONING TEXT AMENDMENT to further amend the 1985 City of Woburn Zoning Ordinance by (a) deleting in its entirety Section 11.6.12, Rooftop Dining in the B-D District and inserting a new Section 11.6.12 in its place; and (b) deleting Note 27 from Notes to 5.1 Table of Use Regulations and inserting in its place the following: "27. Rooftop dining may be authorized by Special Permit from the City Council if the conditions outlined in Section 11.6.12 are met." / Councilors Tedesco, Ferullo and Demers**

Cassidy stated this specific amendment was drafted by the City Solicitor and it was determined the nature of her amendments were outside the "four corners" of the legal ads that were previously advertised by the City Council. The City Solicitor shared her edits with Cassidy and Building Inspector Quinn as a collaborative effort.

Seeing no discussion from the Board, Donovan opened the PUBLIC HEARING and asked if any audience members wished to speak. Cassidy provided instructions as how to use the 'raise hand' function in a Zoom meeting. Seeing no participants, Cassidy recommended closing the PUBLIC HEARING and accepting the Zoning Amendment as drafted.

Motion by Bolgen to close the PUBLIC HEARING;  
Seconded by Doherty;

Roll call vote on the aforementioned motion:

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Aye  
Motion carried, 5-0-0.

Motion by Doherty to send a favorable report to the City Council to accept the Amendment as drafted;  
Seconded by Bolgen;

Roll call vote on the aforementioned motion:

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Aye  
Motion carried, 5-0-0.

**ALAN R. GERRISH DR. (88-92 PEARL ST):** Continuation of discussion regarding street light at end of cul-de-sac/  
Cattle Crossing LLC

Cassidy stated a decision needs to be made as to whether or not a streetlight needs to be installed in the cul-de-sac as depicted on the original approved plan. The Engineering Department discovered the light was not installed, however, the reviewer noted the existing, or what had been the existing street light on Pearl Street that had been relocated as part of the construction process was relocated in such a location that it technically fell within 300' of the end of the cul-de-sac. This is important as the requirement is to have one street light every 300'.

Turner noted she observed the area and felt it was dark and feels that it should be required to be installed.

Callahan agreed with Turner's observation regarding the darkness and suggested a possible alternative stating there is a utility pole opposite the cul-de-sac that, if equipped with a light, may achieve the same goal of illuminating the intersection.

Cassidy was intrigued by Callahan's suggestion regarding the existing pole possibly providing sufficient light and noted she would contact the developer and ask him if perhaps there is a way for him to investigate that scenario.

**APPROVAL OF MINUTES:** November 9, 2021 and November 16, 2021 (virtual) meetings

Motion by Turner to accept the November 9, 2021 Planning Board minutes as drafted;  
Seconded by Doherty;

**Roll call vote on the aforementioned motion:**

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Abstain  
Motion carried, 4-0-1.

Motion by Doherty to accept the November 16, 2021 Planning Board minutes as drafted;  
Seconded by Bolgen;

**Roll call vote on the aforementioned motion:**

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Abstain  
Motion carried, 4-0-1.

**PLANNING BOARD DIRECTOR UPDATE:**

Cassidy noted January 11, 2022 is the next meeting of the Board and as of now is scheduled to be in person in the City Council Chamber. The agenda will include a continuation of the Legacy Lane Public Hearing, election of new Board Officers, and a discussion of potential revisions to filing fees.

**ADJOURNMENT**

Seeing no further business, Bolgen made a motion to adjourn the November 16, 2021 Planning Board meeting at 8:15 p.m.;  
Seconded by Doherty;

Roll call vote on the aforementioned motion:

Bolgen - Aye  
Callahan-Aye  
Doherty-Aye  
Turner-Aye  
Donovan - Aye  
Motion carried, 5-0-0.

The meeting adjourned at 7:57 p.m.

*Table of Documents Used and/or Referenced at Meeting*

|                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PUBLIC HEARING: Legacy Lane Modification:</b> Application; copies of deeds; DPW comment 12/8/21; ENG comment 12/7/21; CONCOMM comment dated 12/7/21; Resident email and photos |
| <b>ZONING AMENDMENT:</b> City Council Order; Red-lined draft of proposed revisions;                                                                                               |
| <b>DRAFT MEETING MINUTES:</b> November 9, 2021 and November 16, 2021 meetings                                                                                                     |

Respectfully submitted,

*Karen Smith*

Karen Smith  
Planner

APPROVED