

Meeting Minutes
May 23, 2017 Planning Board Meeting
7:00 P.M. | City Council Chambers, Woburn City Hall

Chair Turner called the meeting to order at 7:00 p.m. and asked Planner Karen Smith to conduct a roll call of members.

ROLL CALL OF MEMBERS

Mr. Kevin Donovan, Mr. Bob Doherty, Mr. Jim Callahan, Mr. Michael Ventresca, Mr. Dave Edmonds, and Chair Carolyn Turner were present. Ms. Claudia Bolgen was absent. Also present were Planning Director Tina Cassidy and City Planner Karen Smith.

Chair Turner asked Planning Director Cassidy if there were any ANR's to present to the Board.

SUBDIVISION APPROVAL NOT REQUIRED PLAN (ANR): 44-46 FOWLE STREET

Planning Director Cassidy provided an overview of the plan and recommended endorsement of the plan as one not requiring approval under the Subdivision Control Law.

Motion to approve the ANR plan as submitted made by Mr. Dave Edmonds;
Seconded by Mr. Bob Doherty;
Motion carried, 6-0-0.

SUBDIVISION APPROVAL NOT REQUIRED PLAN (ANR): 92 WALTHAM STREET

Planning Director Cassidy provided an overview of the application and noted the material provided by applicant reflected a discrepancy in total lot area(s) noted on the plan. Specifically, Parcel 2 is purported to have an area of 45,051 sq. ft. as depicted on the plan, but the final entry under the Notes section lists the area of Parcel 2 as 45,036 sq. ft. and therefore recommended the Board not endorse the ANR plan as submitted.

Motion to accept the Director's recommendation not to endorse the ANR plan as presented made by Mr. Dave Edmonds;
Seconded by Mr. Bob Doherty;
Motion carried, 6-0-0.

CROSSMAN ROAD DEFINITIVE SUBDIVISION: ACCEPTANCE OF COVENANT AS SURETY TO GUARANTEE COMPLETION OF PROJECT, ENDORSE DEFINITIVE PLANS

Planning Director Cassidy provided an overview of the 3-lot definitive subdivision that was approved by the Board on April 25, 2017. Staff obtained the City Clerk's signature on the plan verifying no appeals were filed during the 20-day appeal period. City Solicitor Ellen Callahan Doucette has reviewed the form and content of the Covenant and found it to be acceptable. Staff therefore recommends the Board vote to accept the covenant as surety to guarantee completion of the subdivision and endorse the approved definitive plan for recordation at the Registry of Deeds.

Motion to accept the Planning Director's recommendation made by Mr. Bob Doherty;
Seconded by Mr. Dave Edmonds;
Motion carried, 6-0-0.

TYLER STREET DEFINITIVE SUBDIVISION: ACCEPTANCE OF AS-BUILT AND STREET ACCEPTANCE PLANS, RELEASE OF REMAINING SURETY AND ISSUANCE OF CERTIFICATE OF COMPLETION

Chair Carolyn Turner recused herself from this matter and Mr. Michael Ventresca assumed the Chair pro tem.

Planning Director Cassidy provided an overview of the current status of this subdivision. The project was last before the Board in June 2016, at which time the developer was granted an extension of the construction completion date until September 2016 in order to complete As-built and Street Acceptance plans. The developer has submitted draft as-built and acceptance plans to the Board, and planning staff requested comments from the Engineering Department and the Department of Public Works on May 11, 2017. Although positive comments have been received from the Department of Public Works, no comments have yet been received from the Engineering Department. Staff therefore recommends the Board table discussion until the June 20, 2017 meeting, and staff will follow up with the Engineering Department in the interim.

Motion to accept the Planning Director's recommendation made by Mr. Dave Edmonds;
Seconded by Mr. Bob Doherty;
Motion carried, 5-0-0 with Chair Carolyn Turner recusing.

Chair Carolyn Turner resumed the role as Chair.

APPROVAL OF MINUTES: May 9, 2017 meeting

Chair Turner stated that the next item of business was approval of the draft minutes of the last meeting. She asked if a member was prepared to make a motion to accept the minutes as drafted.

Motion to accept the minutes, as submitted, made by Mr. Bob Doherty;
Seconded by Mr. Jim Callahan;

Motion carried, 6-0-0.

PLANNING BOARD FILING FEES

Planning Director Cassidy continued discussion from the previous meeting on current Planning Board filing fees and potential amendments to the types and amounts. Director Cassidy noted she supplied Board members with copies of M.G.L Ch. 48 Section 16 regarding the Zoning Board of Appeals and repetitive petitions and also noted that the last time Planning Board filing fees were updated was 6/10/2010. During the last meeting Ms. Claudia Bolgen asked that Staff provide documentation on how the proposed fees were derived. Staff coordinated with all City departments involved in the respective review process detailing each step within the filings to calculate an estimated dollar value based on salaries and time spent processing an ANR or subdivision from start to finish. Staff believes the two documented illustrations support the findings for the new proposals and feels it is appropriate to schedule a Public Hearing for 6/20/2017.

Mr. Jim Callahan praised Director Cassidy for her efforts. He noted Engineering's large hourly volume of man hours is very realistic and the City needs to recoup costs from development. He also reiterated that fees ranging from \$1,700-\$2,200 aren't covering the basic costs.

Director Cassidy stated her goal in the research was not to capture every penny of reimbursement for every moment of City time. The fact that developers and residents are also paying taxes to the City was a consideration when developing the proposed fee structure.

Mr. Jim Callahan shared his concern regarding multiple site visits for failed inspections and the need for the City to recoup the monies for time lost performing these repetitive inspections. He also emphasized the need for contractors to verify their work and be prepared for inspection.

Director Cassidy suggested perhaps a separate fee could be imposed for a failed inspection to cover the costs associated with a re-inspection.

Mr. Dave Edmonds shared his knowledge that at the State Electrical Board the first inspection is included in the original permit application fee and there is an additional fee for each re-inspection after a failed inspection.

Director Cassidy suggested expanding the proposed list of fees to include a \$100 fee for a failed subdivision inspection with the need for a re-inspection. She also mentioned City Solicitor Ellen Callahan Doucette advises that the Board may in fact have the discretion to approve a higher filing fee than what was advertised, if the legal notice contains appropriate notification language. Once the public hearing date is set, staff will work with the City Solicitor to ensure the legal notice contains the proper wording.

Mr. Michael Ventresca asked for clarification regarding the current and proposed fee for ANR's.

Director Cassidy explained at this time there is only one fee for all ANR filings. The current proposal is for ANR's that simply create non-buildable lots to adjust lot lines will be charged \$100 and ANR's that create new building lots will be charged \$200 per lot. The rationale for the fee increase is due to the increased work, in particular, by the Assessor's Office as the creation of a new lot is more work than adjusting the lot lines.

Mr. Michael Ventresca asked for explanation regarding the current and proposed fees for more than one dwelling on a lot.

Director Cassidy noted the current filing fee is \$1000 plus \$100/dwelling in addition to a \$200 legal ad fee plus a fee equal to 1% of the estimated construction costs prior to plan endorsement. The proposed filing fee would be the same with the exception of deleting the 1% fee related to construction costs.

Mr. Michael Ventresca asked for clarification of the proposed fees regarding Appeals of Sign Review Board Denials and also if Staff would elaborate on Site Plan Review fees.

Director Cassidy noted the current fee for an Appeal of Sign Review Board Denial is a \$200 legal ad fee and the proposed amendment is to include a \$500 fee in addition to the \$200 legal ad fee. Site Plan Review fees are currently \$500 plus \$200 legal ad fee and 1/10th of 1% of the total estimated construction costs. The proposed amendment will eliminate the fee based on the percentage of the total estimated construction costs.

Chair Carolyn Turner questioned if the request for an extension of a completion date for a subdivision that is being proposed to increase from zero to \$500 is *per* extension.

Director Cassidy answered yes and stated she will make it very clear when she publishes the proposed fees that it will be *per* request.

Mr. Michael Ventresca questioned whether or not the fee per extension is in line with what other communities charge.

Director Cassidy noted she did not see another "fee per extension" listed in any other community's regulations. However, Planning staff feels it is appropriate to have one, and noted the City Solicitor did not have any issues after reviewing all the proposed fees.

Chair Turner asked if there were any other questions. There were none.

Mr. Mike Ventresca complimented Director Cassidy on her research.

Director Cassidy recommended the Board make a motion to schedule a public hearing on the proposed increases in Planning Board fees at the upcoming Board meeting on June 20, 2017.

Motion to accept the Planning Director's recommendation made by Mr. Bob Doherty;
Seconded by Mr. Mike Ventresca;
Motion carried, 6-0-0.

PLANNING DIRECTOR UPDATE

- a. *Limits of Planning Board authority relative to construction completion dates imposed on subdivisions:* Director Cassidy stated the Board often finds that developers exceed the two-year construction completion period by a significant amount of time. Prolonged construction proves troublesome for abutters and creates extra work for City staff and the Planning Board. Director Cassidy referred to a memo she wrote dated May 15, 2017 to City Solicitor Ellen Callahan Doucette seeking a legal opinion regarding the Board's authority to impose fines on developers who violate the regulations. Other than taking action on bonds or surety posted, the Board has the right to take action under Chapter 41 Section 81Y which is to seek an injunction in Superior Court against the developer. There is no authority for the Board to adopt fines or penalties for violations of its Subdivision rules and Regulations. M.G.L. c40, §21 set out the purposes for which cities may adopt ordinances and bylaws, and authorizes the imposition of fines for violations of those ordinances and bylaws. City Solicitor Doucette suggested the Board might consider requiring a developer to file periodic construction updates and that all requirements related to the submission and approval of subdivisions must, as required by c41, §81Q, be reflected in the Board's rules and regulations. Therefore, the Board will need to amend its Rules and Regulations to make it a formal requirement.

Mr. Mike Ventresca asked if amending the Board's Rules and Regulations to require construction updates is something we need to take action on.

Director Cassidy stated she would draft the proposal and disseminate it to all members. Each member may then review the draft and submit comments and suggested revisions directly to her; she cautioned members not to communicate with each other. Once the revision is finalized, Staff will then publish a legal notice to advertise a public hearing on June 20, 2017 to consider adoption of two amendments to its Subdivision Rules and Regulations: (a) a new requirement for developers to submit construction completion time lines for each definitive subdivision plan filing and (b) updated Planning Board filing fee schedule.

- b. *Upcoming meeting agenda items:* Director Cassidy noted that Scott Seaver will soon be filing for more than one building on a lot for his proposed townhouse development located at 289 Lexington Street. Staff is working with developer George Gately to receive status updates for completion dates on several of his subdivisions and staff expects to include at least several of these projects on the next agenda for discussion.

- c. *Remote meeting participation by Board members:* Staff member Mr. Dan Orr is hoping to have IT technical issues related to this subject resolved by the June 20, 2017 meeting, and will update Board members further at that time.
- d. *Additional matters:* Staff is in the process of updating the proposed Subdivision Tracking Forms with the hope to have them finalized within the next week. Staff also received a petition from Attorney Tarby to amend a zoning ordinance regarding Mixed Use Hotel/Restaurant: A mix of hotel, restaurant or other permitted uses in one building or in separate buildings on one development lot. A Public Hearing is scheduled for the June 20, 2017 meeting.

Chair Carolyn Turner asked if there was any further business or matters for the Board to discuss this evening. There was none.

ADJOURNMENT

Seeing no further business, Mr. Bob Doherty motioned to adjourn at 7:43 p.m.;
 Seconded by Mr. Dave Edmonds;
 Motion carried, 6-0-0.

The meeting adjourned at 7:43 p.m.

◊ *Table of Documents Used at Meeting* ◊

Staff Report
ANR Application 44 Fowle St / SEIIC along with plot plan
Covenant for Crossman Rd
Letter of request from Murry Builders to accept As-Built and Street Acceptance plans; copy of Tyler St deed and plan; Comments from DPW Superintendent Jay Duran
Copy of Registry recordation of 2010 Amendment to Woburn's Land Subdivision Rules and Regulation; copy of M.G.L. Chapter 40A, Section 16; Copy of Proposed 2017 Planning Board Filing Fee Increases; Staff Illustration/Analysis of derivation of proposed fees; Letter of Request dated May 15, 2017 to City Solicitor requesting input on Board authority to enforce construction completion dates and copy of City Solicitor's response dated May 23, 2017
Draft Planning Board Meeting Minutes dated May 9, 2017
Copy of Attorney Tarby's application to Amend Zoning Ordinance regarding definition of mixed Use Hotel/Restaurant; Copy of Director Cassidy and Building Inspector Tom

Quinn's May 3, 2017 comment letter to City Council on revised Shannon Farm plans/Seaver Construction

Copy of Letter to Mr. William Scire from Director Cassidy requesting attendance and an update on the Russo Estates subdivision at August 8, 2017 Board meeting

Respectfully submitted,



Karen Smith
Planner

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.