

Planning Board

Public Meeting

May 5, 2004

7:00 p.m.

Members Present: Barnett Adler, Howard Burchman, and Annie Howard.

Members Absent: Ellen Battaglini (excused absence)

Advisory Staff: Mark Latour

The meeting was called to order at 7:10 p.m.

Agenda

Case# 2004-003 - ANR

Request for Approval Not Required Pre-Application

John McElwee of Felco, Inc. on behalf of Douglas Pew and Donald Croxton. No new ways being created at the property located at 52-56 Creek Road, Provincetown, MA.

John McElwee presented the case to the Planning Board. Douglas Pew and Donald Croxton own the dwelling at 52 Creek Road and the cottages that abut it. They propose going to the Land Court to get a decree on what they show on the plot plan. The Planning Board should make a determination on whether this plan makes a subdivision and John feels the Board should endorse the plan. He wants to present it in a formal fashion. Annie told the Board that this is a preliminary hearing only.

Joe Notaro spoke as a representative of the Conservation Trust and he maintains that they own part of the property in question. Celine Gandolfo spoke, also as a representative of the Conservation Trust, and supported what Notaro had said and wants it to be in the minutes.

The proposed land-locked parcel is not part of the application. Annie, speaking again to the Board, said that we need to look at the frontage and to see that access exists and that there's no subdivision being created. Mark Latour wants to talk to town counsel but Annie said that without the opinion of town counsel, we could still respond to Mr. McElwee and allow him to go to Land Court where the final decision will be made. Annie would like a site visit prior to the next meeting.

Mark thinks it should be tabled at this time. The earliest it could be brought back would be the May 19th meeting. Annie felt that since it is only a preliminary exploration, she thinks John can be given an O.K. to follow through with submission of the plan to Land Court.

Barnett wants to see a deed that says the owner does have the property – or clarification of some kind. John McElwee said they have an overlap of maps and that's why he wants to take it to the Land Court and let them make a determination.

Celine said there is not a specific deed. It's on page 219 of the deed book. Annie explained that there are 2 deeds out there each claim this piece of property.

A site visit will be conducted on the afternoon of the 19th at 5:30p.m. They'll meet with John at site.

Case# 2004-004 - ANR

Request for Approval Not Required

Coastal Engineering, Inc. on behalf of V.S.H. Realty, Inc. Applicant seeks approval to create two lots from

one lot at the property located at 100 Shank Painter Road, Provincetown, MA.

Atty. Veara represented Cumberland Farms, owners of 100 Shank Painter Road. He said the issue which was raised at the last meeting was: The Planning Board's authority is to look at the plan that is presented before them and – in this case – would not require Planning's approval. The issue of a claim of title doesn't influence the case, so if someone argues that the back corner is owned by someone else, this should not be key to the deliberation. The fact that it's been recorded and will not become a subdivision is the only things to be considered.

Barnett Adler asked, "If the other person owns it – then is this not doing a subdivision?" Atty. Veara answered, "You're not certifying that this land is fully owned – what you're saying is that this is not a subdivision. Planning doesn't decided title disputes – but merely decides whether it's a subdivision or not."

A letter from Kelly Jason, the attorney representing Mr. & Mrs. Tasha, who claim ownership of a portion of this property, was read into the record and will be contained in the file.

Motion: Howard Burchman made a motion to endorse the plan as presented. Barnett Adler seconded the motion and it passed 3-0-0.

Minutes

There were not enough members to approve past minutes at this time.

Any other business that shall properly come before the board

David Nicolau asked to meet with the Board. He has found a possible plan to qualify for an ANR. He passed out maps from Book 391, page 32. He was playing with access off Cemetery Road and/or Route 6 – which has a recorded right of way. David wants an ANR and would like to continue to use the right of way as an access. Each lot would have a 50-foot frontage with 4 lots being made out of it. The plan – at this stage – seemed plausible.

Annie Howard said that there is a temporary Certificate of Occupancy (COO) at one of the Moors condos. It has been occupied under this COO for quite some time (longer than the stipulated 30 days grace period) and now there's a "For Rent" sign on this property. Mark Latour will follow up.

Annie also requested more information on Hobson Avenue. She received a call from a woman who quoted a 1986 ruling which stated that no new lots would be created until a cul-de-sac was made to accommodate fire trucks, etc. This was a provision made by the Planning Board in the mid 80s. Annie informed the neighbor who called that she would look into it.

Annie referred to last months meeting with John Goodrich; it was a post town meeting and many different Boards were invited to attend. She said the meetings start at 5:p.m. and last for approximately 2½ hours. All members of Boards are invited to attend.

Barnett, referring to an ANR, said that we couldn't leave a property land-locked. Annie, once again explained, that we're not finding in favor of anyone - the Land Court will have the final say. Barnett feels that we should only see it AFTER the Land Court makes their decision. Annie said the abutters don't have to show their entire lot – just a proposed land lock. Annie continued saying that the only way we approve this is so they don't have to put in a road and create a subdivision. We're only saying it is not a subdivision. Nothing more.....

The meeting adjourned at 8:06 p.m.

Respectfully submitted,
Evelyn Gaudiano
Evelyn Rogers Gaudiano

Approved by _____ on _____, 2004.
Annie Howard, Chair

