

Planning Board Public Hearing
Monday, May 03, 2010
Grace Gouveia Building, Room 6
26 Alden Street, Provincetown, MA 02657

Planning Board Members Present: Marianne Clements, Dorothy Palanza, Peter Page and John Golden.

Excused Absent: Howard Burchman.

Staff Present: Maxine Notaro, Permit Coordinator.

Marianne Clements, Vice-Chairman called the meeting to order at 6:00 p.m.

Site Visit 5:00 p.m.

55-61 Harry Kemp Way to view property for proposed ANR parcels of land and for Site Plan Review
All four board members were present. They walked the property to view the present layout and to see what existed prior to the public hearing.

Meeting Agenda 6:00 p.m.

Request for Approval Not Required Pre-Application

Application by John McElwee of Felco, Inc. On behalf of 170 Commercial Street LLC to create two lots from one lot at the property located at 170 Commercial Street, Provincetown MA.

John McElwee said the property is located at the corner of Commercial and Winthrop Street and is in the TCC (Town Center Commercial) zoning district. The request is to divide the property into two parcels. The requirement for each parcel is 5,000 square feet. Lot 2 will be a 5,003 square foot parcel with 62.50 feet of frontage on Winthrop Street and Lot 3 will be a 9,731 square feet parcel with 77 feet of frontage on Commercial Street and 128.57 feet of frontage on Winthrop Street. The two lots will both have the adequate lot size and frontage.

Peter Page asked what the use of lot two was going to be and John McElwee said the intent is to build a residential structure on it.

Peter Page asked where the parking would be for the front commercial building and John McElwee said there were no parking requirements in this zone.

No further discussion. Mr. McElwee will present the ANR at a later date.

Request for Approval Not Required

Application by William N. Rogers, II, P.E. & P.L.S. to divide lots 30, 31, 32, 33 and 41 into lots 42, 43, 44 and 45 at the property located at 55-61 Harry Kemp Way, Provincetown MA.

The Planning Board had previously approved a site plan showing lots 30, 31, 32, 33 and 41. Mr. Rogers said they are now creating four lots from five lots shown as Lot 42, Lot 43, Lot 44 and Lot 45 with the minimum required frontage. Three of the buildings will have a shared septic system. The buildings will be conforming to the lots and have frontage on the lots. The access will be as shown on the Site Plan. The lines do cross over each other. The utility easement will be removed with a proposed easement to lot 45.

The Building Commissioner submitted a memo addressing his concerns.

Mr. Rogers said he was not submitting this under a Site Plan Review, he is submitting the lots division under an ANR and everything is conforming. There will be proper drainage because there will be permeable surfaces.

Peter Page said the Building Commissioner speaks to access and then addresses the frontage access for lot 45 either being on 50% slopes or through Conservation restricted areas. He would like to see potential for the other lots.

Billy Rogers said lot 43 will never access off of the road. MESA was discussed regarding Lot 45 and a 12% grade is proposed.

The ANR Handbook references adequacy of a way and adequacy of a way from a portion of buildable lots. The Building Commissioner's comments refer to an ANR and Site Plan.

Billy Rogers said the proposed access is for all the lots, which eliminates all road cuts. The lot lines are go get the building permits quicker. If the Site Plan is not approved then the ANR goes nowhere.

Peter Page said he was satisfied with the cross lines due to a court decision. These two points as mentioned in the ANR Handbook on Page 3 on Adequacy of a Way as points 1 and 2 are sufficient to satisfy his decision.

Deborah Paine, contractor for the adjacent property owner said when you have an ANR you have to consider the ANR itself. If these lots were created by themselves, would you have driveways by themselves? Regardless of the easements because you have not seen the easements yet.

David Garnder asked when the easements would be filed and Mr. Rogers said they would be filed on an 8½ by 11. He would not do anything with the ANR until the cross easements have been seen and reviewed.

Marianne Clements said she would want to see the easements before she endorses the plan. The Board could condition it.

Billy Rogers said the Board could approve the ANR subject to easements and the Board could hold onto the Mylar.

David Gardner said the Board must take action of the ANR within 21 days of filing.

Billy Rogers said the ANR is not going anywhere. He would need to come back to the Board with the cross easements. Karen DePalma has not drawn up the easements yet.

Motion: To endorse the plan as submitted.

Moved: Dorothy Palanza.

Seconded: Peter Page.

Voted: 4-0-0.

Public Hearing

Case #FY10-15 Site Plan Review

Application by William N. Rogers, II, P.E. & P.L.S. on behalf of Miller Hill Realty Group, Olga Opsahl under Article 2, Section 2320 of the Zoning Bylaws for High Elevation Protection District A. The applicant seeks approval for a proposed residential development contingent upon ANR Approval at the property located at 55-61 Harry Kemp Way, Provincetown, MA (Res3/ResB Zone).

Billy Rogers submitted a plan showing the Conservation Restriction area as being 67% of the whole lot. The lot could contain 17 dwelling units' maximum however, only five will be constructed. They could have fit in another building but the client say no. The lots have a 25' setback on a rear average and only 10' is required. The buildings and drainage were placed closer to Harry Kemp Way.

Gary Locke said the Board of Selectmen had previously approved a curb cut and the Fire Department and DPW had approved. The roof runoff is subject to the pervious materials. The walls will be no higher than 4' maximum and are well away from the setbacks. They will be 3' around the property lines. There is a small cottage in the rear on lot 45 and the septic system pumps to lot 45. There will be a 12' radius. Lots 42, 43 and 44 will have a shared septic system per DEP regulations. Lot 42 lot coverage is 21% with green area being 39%. Lot 44 has 22% coverage with 73% green area, Lot 43 has 22% lot coverage and 44% green area and Lot 45 has 11% lot coverage and 85% green area. Five parking spaces are required and they are providing ten spaces. There will be adequate trees planted and the entire project will have as natural of a look as possible. The building topographical is 1', 2' and 3' lower than what they could be. While there will be a higher grade than that of White Pines Condominiums (the adjacent property), the proposed buildings will be two-story buildings and the cottage will be like a one and a

half story. Buildings A&B will be 29½ feet above proposed grade, Building C will be 27¼ feet above proposed grade, Building D will be 27 feet above proposed grade and the cottage will be 29 feet from proposed grade to the peak. The buildings are under or at the allowed neighborhood average minimum scale units. A, B & C are at 122.51 scale units, D & E are 113.62 scale units and the cottage is at 63 scale units. Buildings A, B and C are under scale. They have separated the decks from building D & E. The buildings are accessed with stairways and planters.

Each unit will have a light outdoors and around the parking lot and walkways 3' bollards will be installed. There will be no light poles on site. All utilities will be underground. The area will be vegetated with native plantings.

Marianne Clements asked about the drainage for the cottage with respect to the pool and could the cottage be pushed back.

Gary Locke said he would provide a geotechnical report on the soils.

Dorothy Plaza questioned the retaining wall near White Pines Condominiums and said there should be plantings so as to make the wall less visible. Mr. Rogers said this wall is only 34" in height.

Peter Page said there should be plantings around the area of the pool to cut down of the pool visibility as well.

Gary Locke said the pool will be fenced in and plantings will be done.

Marianne Clements asked about paving and Mr. Locke said part of the driveway will be paved and 80% will be crushed shell or stone. Concrete walls will be installed only where needed for parking otherwise, they will be wood. The buffer from the Crowberry will be 10' instead of 15'.

Estelle Goldberg spoke very highly of the two individuals who are developing the property and said they did a wonderful job with the houses they built on Miller Hill Road.

Daniel Keizer, abutter at 29 Miller Hill Road had concerns about the proposed development. He owns the Hawthorne property and said his house was on the National Register of Historic Places. He treasures the hill and the environment around it. While his neighbors are doing their best to stay within modest building, there is a conservation restriction area that is set by the state. He would like to see the pine forest continue down the hill in this area. He sees other areas that have been pretty well backed in right to the property lines and does not want to see this happen here. There are areas of concern as follows:

1. He is trying to maintain that view; building B is not out of context with the neighbor on one side but it is on the other side. He wants to make sure that irrigation and landscaping is taken seriously.
2. He is concerned about Erosion.
3. Special Regulations for High Elevation District A; moving more than 2500 cubic feet of earth refers to sections 4160 and 5331 and that a Development Impact Statement can be required.

Deborah Paine said she was the contractor for Mr. Keizer and for the record stated she worked on and knew of other projects that required planting plans such as 9 Oppen Lane and 7 Creek Round Hill Road. All retaining must be obliterated by the landscape. Landscape must hide the retaining walls as she was previously instructed to do. As a contractor, when you get over to the cottage and pool area, there is a 6' drop. It is a tight building site and where will that runoff go? There must be something to protect that area because the construction for this type of project will probably take a year to completion.

The abutters at 27B Miller Hill Road spoke in favor of the proposed project stating these are the same developers that developed the 27B Miller Hill Road project and that development turned out wonderful.

Estelle Goldberg said the main house previously owned by Olga Gee is under construction and as an abutter she was not notified. They have ruined the upper portion of Miller Hill Road and the view.

Deb Paine said she is the contractor of record on that job and they are in the process of installing a new septic system and NSTAR needs to install a pole. Once these things have been completed, the area will look better. As for 27B Miller Hill Road, the plantings are all indigenous materials.

Jim Pellesica felt this was a subjective discussion because what one considers beautiful another might not.

Estelle Goldberg said Miller Hill Road from the fire hydrant is private and wanted to know who was going to pay for the damages to the road that were done by 29 Miller Hill construction. However, this was not pertinent to the public hearing being discussed.

Tom Tannierello said 300' where the property line meets there is natural vegetation 25'.

Daniel Keizer said the two homes that affect him the least is A & B.

Demitri Daphnis, abutter at 67 Harry Kemp Way felt as though the proposed project has a great deal of green space and they could have constructed more buildings on the lots. The concern he raises is the pool and where will it be pumped when emptied.

Gary Locke said the pool is a salt water pool and the water gets recycled and the water is pumped in and pumped out into truck. There is no drainage on site.

Demitri Daphnis asked if the pumps for the septic to the D Box would create noise.

Gary Locke said there is no noise, it's at zero decibels.

Demitri Daphnis said he sees no problems with the plantings. They could plant indigenous plants in the location of Building D and evergreen screening along Building D & E.

Jim Pellesica said he and Tom Tannierello are the owners and they will be living there. They want the property to look nice. As a matter of fact, 67% of the property is MESA.

Board members discussed the areas of concern as follows:

- Landscaping plan showing coverage and height of plants
- What's the amount of soil to be removed in high elevation and on all lots?
- Correction plan showing the ten foot buffer shown instead of the twelve feet
- Integrity on the distance of the pool from the slope (plantings)
- Geotechnical report on the soils

Peter Paged asked when they thought the easements will be finalized and Mr. Rogers said Karen DePalma, attorney needs to draft them first.

Peter Page said they planning board will still expect the parking areas to be built as shown on the plan.

Mr. Rogers said the plans will not change.

Motion: To continue the public hearing until May 17, 2010.

Moved: Dorothy Palanza. Seconded: John Golden. Voted: 4-0-0.

Election of Officers **To be discussed at a meeting with full board compliment.**

Minutes of April 12, 2010

Motion: To approve with correct meeting time.

Moved: Marianne Clements. Seconded: John Golden. Voted: 3-0-1 (Dorothy Palanza).

Adjournment

Motion to adjourn at 8:15 p.m.

Respectfully submitted,

Maxine Notaro

Permit Coordinator/Recording Secretary