

JAN 23 2018

LUNENBURG TOWN  
CLERK OFFICETOWN OF LUNENBURG  
Office of the Planning Board

Gregory Bittner, Chair  
 Matthew Allison, Vice Chair  
 Kenneth Chenis, Clerk  
 David Prokowiew, Mbr.  
 Michael-Ray Jeffreys, Mbr.




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Adam R. Burney  
 Land Use Director

Marjorie J. Boggio  
 Administrative Assistant

Minutes  
 January 8, 2018

Meeting Posted: Yes

Place: Town Hall, 17 Main Street, Lunenburg, MA

Time: 6:30 PM

Present: Gregory Bittner, Matthew Allison, David Prokowiew, Michael-Ray Jeffreys (left at 9:50 PM), Adam R. Burney

Absent: Kenneth Chenis

**PUBLIC COMMENT:** Tanner Cole, 563 Massachusetts Avenue- Speaking as a small business owner, he would like the Board to consider amending the sign bylaw to allow a freestanding sign in front of a building without having to go through Planning Board review. He opined that to go through the bylaw process can be quite a financial expense for a small business; the engineering could end up costing more than the sign. He noted that in Lancaster, MA a sign can be erected of less than 30 square feet in the commercial district. M. Jeffreys commented that he feels signs should come before the Board, but an applicant can request all rules to be waived. T. Cole responded that it just puts another obstacle in the way of small businesses; it does not foster economic development. There will be continued discussion at the Board's January 22<sup>nd</sup> meeting.

**APPOINTMENTS:**

**40 Summer Street, Pre-Submittal Meeting-** Carlos Terrero and Aaron Cosgrove requested a waiver from the Board's site plan approval process. The Board, at its December 11, 2017 meeting, questioned whether the Zoning Board of Appeals (ZBA) approved the Applicant for twenty (20) or fifty (50) vehicles. Clarification was provided from the ZBA Secretary that the Decision was for fifty (50) vehicles. M. Jeffreys made a motion to grant the waiver as requested, seconded by D. Prokowiew, all aye.

**Stone Farm Estates, Closeout & Bond Release-** John Scribner, Stone Farm LLC, requested that the surety be reduced. The suggested amount to be retained, provided by the Board's reviewing engineer, was \$27,000.00 based upon a 15% adjustment for prevailing wages. The \$ 27,000.00 is for completion of construction-phase items not finished prior to the developer turning over ownership to the condominium association. D. Prokowiew made a motion to release \$ 740,984.25 from the remaining balance of \$ 767,984.25; to leave a balance of \$ 27,000.00, seconded by M. Jeffreys. Discussion: M. Allison inquired if the \$ 27,000.00 is for completion of the work; yes; this is what it would cost if the Town has to complete the work. Elaine Mroz of the Stone Farm Condominium Association inquired as to the incentive for the developer to complete the work if only \$ 27,000.00 is being withheld and the work will cost \$ 27,000.00. A. Burney responded that the \$ 27,000.00 is using prevailing wage Town cost. The developer's engineer submitted a cost of slightly less than \$ 15,000.00. It is possible that the developer may be able to complete the work for under \$ 15,000.00, and if so, will want to get back any remaining funds. All aye.

**Lake Whalom Overlay District, Board Discussion-** A. Burney gave a brief summary, noting that the Board had received two previous applications for 274 Prospect Street located in the Lake Whalom Overlay District (LWOD). Both applications were withdrawn after different issues; density of the development being a major factor. There is now a third applicant proposing a similar development. Three different opinions had been previously provided to the Board as to interpretation of the density; two from the previous Building Commissioner/Zoning Enforcement Officer (BC/ZEO) and one from previous Town Counsel. In one letter the BC/ZEO stated that density would be determined by the Planning Board as part of the special permit. In another letter,

the BC/ZEO stated that eight (8) units per acre is the density. The letter issued by Town counsel opined that the Planning Board implements the LWOD Bylaw and the zoning bylaws and advice from either Town counsel or the BC/ZEO is not binding. The Board can choose whether or not to act on a special permit. The Board wanted to discuss its interpretation of the LWOD Bylaw prior to acting on a new application and determine if it wants to seek advice from the current BC/ZEO and/or Town counsel. A. Burney was of the opinion that the special permit dictates the density. M. Jeffreys was not clear as to the conflict. G. Bittner responded that it is the density language contained in the LWOD Bylaw. A. Burney noted that the current BC/ZEO is not bound by a previous determination. M. Jeffreys opined that if you are talking about land that is less than ten (10) acres, you are not necessarily talking about the LWOD, but the underlying zoning district. He went on to note that if it is densely populated, a variance is required from the ZBA. Neither M. Jeffreys nor G. Bittner felt that another opinion needed to be solicited. M. Allison was of the opinion that it would be a waste to put only three (3) dwelling units on 3.5 acres. <sup>on this parcel</sup> A. Burney feels the Board has the ability to allow more than one unit per lot, with a lot being the equivalent of one acre in the LWOD. D. Prokowiew questioned if the Board can come to an appropriate density consensus, regardless of an application, and does the Board have the right to change the density. Both G. Bittner and M. Jeffreys <sup>WBA</sup> were of the opinion that the Board had discretion to set the density. M. Allison was more concerned with the aesthetics of a development from the abutters' viewpoints than the density. He felt it would be sensible to get an opinion from the BC/ZEO and/or the ZBA. There will be continued future discussion. A. Burney will ask the BC/ZEO if an applicant can seek relief through the ZBA for the ten (10) acre requirement.

**APPOINTMENT: 274 Prospect Street, Pre-Submittal Meeting-** The prospective applicant was represented by Wesley Flis, Whitman & Bingham Associates (WBA). W. Flis noted his understanding of the history of the LWOD, remarking that the former Planning Director was a major force in its creation. Only two landowners were put under the LWOD. There didn't need to be ten (10) acres to be developed. This piece of property has always been in the LWOD so why would the LWOD Bylaw require ten (10) acres of property, when this piece is only 3.5+ acres. He went on to state that this proposal meets all requirements except for density. He noted that the Emerald Place Development was developed at eight (8) units per acre. He conveyed that both the prospective applicant and legal representation feel that the Board can grant a special permit, even if it is less than ten (10) acres as long as the applicant does not ask for any other variances from the dimensional offsets. He feels that under §250- 4.12.E.(2) the density for the LWOD "...shall not be more than eight units per acre...". He is asking if his client can apply under a special permit for more than three (3) units; if not, he doesn't want to waste the client's money. They are asking for eighteen (18) units. Is the Board able to grant a special permit for eighteen (18) units?

WBA was of the opinion that they would not be able to receive a ZBA variance. To obtain a special permit from the Planning Board, an affirmative super majority vote of four (4) would be required. M. Jeffreys noted he would vote no, G. Bittner opined that the Board has the ability to pick a density between three (3) and eight (8), D. Prokowiew would like to see what the applicant is proposing.

*1 Unit per Acre 8 Units per Acre*

WBA presented a concept plan; eighteen (18) units, all 55+, two bedrooms, with two of the units being affordable. For aesthetics, the back side of units facing Pond Street and Kimball Street will be outfitted to look like the front of a unit. Nineteen (19) parking spaces are proposed along Kimball Street, along with a sidewalk. Units on the upper side of the site would have one-car garages, units on the lower, two-car.

D. Prokowiew asked if the applicant would consider an outside common area, e.g., benches where the crossover is at Kimball and Prospect to Parcel A on the lake. M. Allison wondered if the intersection at Kimball and Prospect could be improved. M. Jeffreys felt that if the property owner could get support in the neighborhood, ten (10) signatures could be obtained in hopes of amending the LWOD Bylaw at spring town meeting. D. Prokowiew would like to see unit scale in relation to neighboring homes.

**MINUTES APPROVAL:** All minutes approved  
12/04/17, Executive  
12/11/17

**COMMITTEE REPORTS:**  
Capital Planning Committee- Committee to begin prioritizing departmental requests.  
Storm Water Task Force- no meeting  
Agricultural Commission- no meeting  
School Building Committee- no report

MJTC- no report

MRPC- meeting January 11th

Open Space Ad Hoc Committee- Meeting January 11<sup>th</sup> to discuss Chapter Land at Prospect Street and Cross Road.

Charter Review Committee- meeting January 10<sup>th</sup>.

Green Community Task Force (GCTF)- no meeting

**DIRECTOR'S ITEMS:**

**Lot 5, Prospect Street & Cross Road: Chapter 61B-** The Board needed to provide a planning opinion to the Board of Selectmen as to whether or not the Town should consider purchasing the property. Both M. Jeffrey and D. Prokowiec felt that the Town should purchase the property. M. Allison and G. Bittner agreed that it was not financially feasible for the Town. A. Burney will inform the Board of Selectmen.

**District Local Technical Assistance (DLTA)-** The Town continues to pursue economic development through DLTA. The Town could work with MRPC to set further priorities for housing; the Town's Housing Production Plan is effective through 2020. Tri Town Landing is contemplating modifying its existing plan by taking the remaining family units and turning them into senior units.

**Definitions and Use Table-** The Board worked on finalizing the language up to page 11 of the December 11<sup>th</sup> draft.

**MEETING SCHEDULE:**

January 22 – Continued discussion of Sign Bylaw and LWOD Bylaw

January 29 – Potential workshop on Definitions and Use Table

February 12

February 26

**PUBLIC COMMENT:** None

**ONGOING ITEMS:**

Economic Development

Code §250- 4.16. Registered Marijuana Dispensaries

Code §250- 4.15. Solar Energy Systems

**BOARD COMMENT/CONCERNS:**

Student Initiative

**ADJOURNMENT:** 10:00 PM

**Documents used at meeting:**

40 Summer Street- Request for Waiver

Stone Farm Estates, Riley Road- Request for Bond Release

274 Prospect Street – Conceptual

Minutes- Executive 12/04/17, 12/11/17

Definitions and Use Table, DRAFT

District Local Technical Assistance, Request for Service Delivery

Minutes/2017/12.11.17