

W. T. PLANNING BOARD MEETING, SEPTEMBER 10, 2007, 7:30 P.M.

PRESENT: David Douglas, Ginny Jones, Susan Silva, Mark Yale, Erik Hammarlund

ABSENT: Leah Smith

ALSO PRESENT FOR ALL OR PART OF THE MEETING: Robert McCarron, Ellen Kaplan, George Sourati, Chuck Gilstad, Doug Sederholm, Carol French, Rob French, Mike Lynch, Arthur Marx, Molly Marx, Dr. Filkelstein, Chris Brooks, Louisa Williams, Bob Woodruff, Victoria Phillips, Simone DeSorcy

CORRESPONDENCE

In: Rachel Baumrin re. Paint/Hardware Store;
Chilmark Planning Board re. Public Hearing;
John & Patricia Kirk re. Bennett Special Permits

Out: State Ethics Commission re. potential conflicts

NEW BUSINESS

Rachel Baumrin, Site Plan Review, Paint/Hardware Store in MB District: David read a letter from Rachel Baumrin proposing to locate a retail paint/hardware; house ware supply store at 505 State Road within the MB District. Susan made a motion to approve the use, as it is appropriate for the business district. Mark said he did not feel a site visit was necessary as the Board had recently been to consider a different proposal. Ginny said that the hours should be no more than 7 a.m. to 7 p.m., 7 days a week. The Board voted unanimously in favor.

OLD BUSINESS

Public Hearing: Estate of Eleanor Norton Bennett, M.V. Land Bank M11, L82.1, Special Permit: David read the hearing notice and opened the public hearing. Ellen Kaplan and Chuck Gilstad, agents of the estate, presented the application. Ellen Kaplan said that the property would be divided into four lots. The estate has contracted with the Land Bank to buy lots 2, 3, and 4; lot 1 will go to Eleanor Bennett's grandson. She said the Land Bank has the right to have partners in acquisitions. Lots 2 and 3 will be purchased by the Island Affordable Housing Trust. David said that at this point, the Board cannot take future owners into consideration, and that this public hearing was to consider the special permit applications for proposed driveways to the lots with less than 1,000 feet of separation. Ellen Kaplan said that the proposal is for a single driveway cut for lots 1 and 2 to share, and another driveway for lot 3 approximately 200 feet away. She said that because lots 2 and 3 will have the same owner, the driveway for lot 3 may not be necessary to construct.

Mark said that he has a problem with the proposal since a mission of the Board is to reduce the number of curb cuts on major roads. He said that by endorsing the Form A plan he feared the Town would lose the right to disallow a driveway to each lot. Ellen Kaplan said in that case the Estate would withdraw the 4 lot division and replace it with the original 3 lot division which doesn't include the line between lots 2 and 3, the affordable housing lots. In addition, the Estate would withdraw the special permit application for the driveway onto lot 3.

Mark asked if this happens, and the plan is endorsed, would the Town lose the right to require a single shared curb cut. Ellen Kaplan said it could enforce the single cut if the special permit is based on the 3 lot plan. Rob McCarron, attorney for the Planning Board, said the question is whether to grant a special permit for accesses less than 1,000 feet from each other. He said if the Board grants 1 access for a 3 lot division, then no additional driveways can be created within 1,000 feet without another special permit.

Ginny said that the Planning Board has a long history of eliminating the proliferation of extra driveways. The visibility in the area is bad, and the traffic is horrid. She said she feels the Board should adhere to its principles, and strongly urged members not to approve the special permit application. She said that dual driveways are an example of what we've been trying to avoid. By allowing an option for another driveway onto lot 3, it will be a self-fulfilling prophecy. Rob McCarron said that this special permit procedure was necessary for the Form A application to even be considered. He said that Lot 4, the Land Bank 14-acre property, could have its own driveway no closer than 1,000 feet from another drive because it has enough frontage on State Road. He said the owners of Lots 1 and 2 could share the curb cut and then immediately branch off. He said the Board could not restrict the length of the shared portion of the road.

Mark asked whether the special permit could denote the maximum width of the shared curb cut. Ellen Kaplan said the apron width is mandated by the State. Rob McCarron said that the State requires an arc of 20 feet by 20 feet by 20 feet.

David said that denying the special permit and thus requiring a Form C subdivision would solve all the issues, and we would know exactly what the road would look like. Rob McCarron said that the Board's role is to determine whether the applicant is entitled to a special permit. He read from the bylaw stating the findings the Board would need to make.

Ginny said she was concerned about the width of the apron. George Sourati said that the apron would be the same width whether it is serving one driveway or two. Ginny asked whether the Board can specify that there would be one apron servicing two lots. Rob McCarron said that the Board has the authority to condition the special permit, but that he is struggling with the issue of whether each lot has reasonably guaranteed access to a public way. If the Board specifies only one access for two lots, is that reasonable access? He said that the threshold for Form A access is very narrow. If the Board grants the special permits, it must endorse the Form A plan. Mark asked if the Board endorses the plan if there would be further cuts within 1,000 feet without another special permit. Rob McCarron said not without a zoning change.

George Sourati said the Land Bank has no plans for a trail head access on this side of State Road. David said that if the Board requires a Form C, then the Board will also know where the Land Bank trail head would be. Rob McCarron said that with a Form C there would be an absolute elimination of multiple accesses. Susan asked whether the

special permit can require the exact location of the double access. Rob McCarron said yes, but that the Land Bank parcel could not be restricted because it has enough frontage. George Sourati said that if we go with the 3 lot plan, then the application would be for a single, 20-foot apron.

Ginny said that she is concerned that in the future, if/when the players change, there could end up being two driveways. Rob McCarron said that Ginny makes a good point. He said from a Form A perspective, this application is cutting it extremely close. He said he would want to see an easement agreement. Ginny said that if something could be written that satisfies Board Counsel, she could be satisfied.

Mark asked if the Board approves a single access straddling lot lines, whether in the future an applicant wanting to reconfigure lot lines could get more curb cuts without coming back to the Board. Ellen Kaplan said that the Estate is giving a covenant prohibiting further division.

Rob McCarron said that the Island Housing Trust is likely to file a 40B application for high density affordable housing on its lot, in which case the ZBA could allow a second curb cut, and override the 1,000 foot separation requirement. Susan said that a 40B could also override a Form C. David asked whether this was the case; Rob McCarron said it was. Doug Sederholm said that a 40B would go to the MVC for review. Ellen Kaplan said that a 40B cannot override a private covenant.

Abutter Bob Woodruff said he was happy to see that some of the property is going to the Land Bank, but wishes all of it could be protected. He said the affordable housing component should go in a location that makes more sense. He said that this is a nice piece of open space, and discussed the abutting Old Mail Route that is used recreationally.

Abutter Mike Lynch said that generally a Form C is required to ensure only one driveway is built, so granting this permit would allow the avoidance of a Form C. He said that in 1987 when he was building on his property it took him months to receive permission from the Town to cut his driveway onto State Road due to safety issues along that stretch.

Bob Woodruff asked about the portion of the entire lot that has bad title. Ginny said that was a separate issue from the special permit application in front of the Board tonight. Carol French said that another title researcher is looking into that portion. Doug Sederholm said that only the Land Bank has looked into the title; they only performed a search on the land they were interested in, and it doesn't affect what is before the Board. Bob Woodruff said it is amazing that the Land Bank is not interested in pursuing the portion with bad title, especially considering its location next to Old Holmes Hole Road.

David read a letter from John and Patricia Kirk, abutters, in opposition to the special permits.

Mark made a motion to close the public hearing, keeping the written comment period open for two more weeks, and for the attorneys to flesh out a private covenant limiting the maximum width of the shared access. He said a major question for members to ask themselves is whether they would be satisfied with the application and covenants if they didn't know the plans for the property. Board members voted in favor of the motion.

Susan made a motion to accept the withdrawal of the 4 lot Form A application to be replaced with a 3 lot application, and to accept the withdrawal of the Special Permit application for a driveway onto former Lot 3 (the 5-acre parcel); all in favor.

Site Plan Review, Burke Residence, M18 L10: Susan made a motion to approve this single-family residence on Great Plains Road; all in favor.

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,
Simone DeSorcy, assistant

Approved 9/24/07