

**TOWN OF MARION
PLANNING BOARD
July 16, 2012**

MEMBERS PRESENT: Patty McArdle, Vice-Chairman
Sherman Briggs
Ted North
Steve Gonsalves
Stephen J. Kokkins, Clerk

MEMBERS ABSENT: Jay Ryder, Chairman
Thomas Magauran

BOARD SECRETARY: Terri Santos

ALSO PRESENT: Matthew Leone, Schneider and Associates
Anne Smith, The Wanderer
Gregory Morse, Morse Engineering
Roger Tangline
Bill St. Cyr
Bill Saltonstall
Jake Jacobson
Eunice Manduca
Richard Gregory
Gail Gregory
Jennifer Francis
Mildred Cooper
Steve Grima
Rick Costa
John Beck
Ron Morrison
Carolyn Morrison
Laura Briggs
Tom Sullivan
Marc Sylvia
Matthew Tenaud
Arron Bart
Chris Collings
Jeffery Glavin
Sean Spark

Commencement – Vice- Chairman McArdle called the meeting to order at 7:00 p.m. and explained the meeting procedure.

ANR Plan – James and Cheryl Huges, 223 Converse Road c/o Douglas Schneider
Mathew Leone of Schneider and Associates represented James and Cheryl Huges. He presented the ANR plan to The Board.

Motion made by Member North to endorse the ANR plan as presented, seconded by Clerk Kokkins.

VOTE: 5-0-0

Discussion – Indian Cove, Rodger Tangeline

Roger Tangeline approached the Board and explained that he, his brother and cousin are hoping to purchase the property of Aucoot Cove Boat Yard and divide the property into three lots. They would like to divide the property without falling into the subdivision rules and process. It is their belief that because there are multiple buildings on the property they could go through just the ANR process. He commented that the Board had indicated previously that he may be able to put a paper turnaround on the Mattapoissett side of the property to get the required frontage.

Vice – Chairman McArdle explained that she saw the meeting with the Mattapoissett Planning Board where it was inquired about getting the access through their Town and the Board did not have an issue. She explained that she had spoken with Attorney Witten and because the property does fall within the exception of 81L, where there are multiple buildings on the property, you can divide without concern about frontage.

There was discussion that if they do go through just the ANR process that The Board will not guarantee that they can get a building permit for the property. They have the right to go through that process, what the consequences will be the Board is not sure of. If they go through the Subdivision process most requirements could possibly be waived; the main concern would be the access by emergency vehicles. Vice-Chairman McArdle recommended that he speak with each of the emergency departments of both Towns.

Mr. Tangeline explained that the originally proposed position of the paper cul-de-sac is possibly on wetlands and Schneider and Associates suggested another alternative that would be a large box on paper (rough draft on file in Planning Office). The emergency vehicles would be allowed to turn in the loop already there in Mattapoissett. Mr. Tangeline commented that he would speak to the Fire and Police Departments on that new concept.

Vice – Chairman McArdle stated that comments should be made in writing, directly to the Board on Department letterhead.

Vice – Chairman McArdle explained that Mr. Tangeline would have to choose – if they do not go through the subdivision process the Board cannot guarantee that the property will be buildable because they have not looked at frontage and a site plan. If they go through the Subdivision process, which would cost more money, the Board would

probably waive many of the requirements and the applicants will know what they can do with the property.

Public Hearing – Definitive Subdivision Plan – River Road, Map 9 Lot 20W (Portion) and 35A, Investors Fund Trust c/o Morse Engineering Company, Inc.
Clerk Kokkins read the public hearing notice into record.

Motion made by Member North to open the Public Hearing, seconded by Clerk Kokkins
VOTE: 5-0-0

Greg Morse explained to the Board that he represented Investors Fund Trist and Kenneth Mousette on the development of a two lot Definitive Subdivision on River Road. They are requesting four waivers for the existing site of 4.65 Acres. All of which is upland with a small portion on River Road which is FEMA Zone AE, elevation 15 feet and is defined as the 100 year flood plain. All lots will be septic and are Residence C, each lot is approximately 2 acres and has 200 feet of frontage and will comply with front, rear and side setbacks.

The road way and drainage maintenance will be the responsibility of a Homeowners Association; the maintenance program included in the Application.

They have met with Conservation Commission for Notice of Intent and will submit a revised plan after getting feedback from Planning Board. They will also meet with the Natural Heritage and Endangered Species Program and are setting aside a designated area of land in perpetuity as open space that cannot be developed.

Mr. Morse explained the following waivers (on file in planning Board Office):

Waiver 1 – 4100.2 –the road way width is 40 feet - subdivision rules require 50 feet.

Waiver 2 – 4100.2i - requires a leveling of 100 feet they are asking for a leveling of 50 feet.

Waiver 3 - 4600.4.2.1 & 4300.4 - on Lot 2, a portion of the lot, 0.4 acres, is made of drainage easement for drainage basin for roadway is located.

Waiver 4 - Section 4600.4.2.2 – Storm water setbacks

Vice – Chairman McArdle asked Ken Motta, the Consulting Engineer, to make comments he then asked the Public for comments.

Comments from the Abutters are as follows:

Chris Collings – 13 River Road

- 1) The road is not paved and is tar over sand.
- 2) The Town should be managing the sand and storm drains.

- 3) He expressed concern that the new property owners would be managing the storm drains.
- 4) He explained that when it rains a pond or lake will develop at the base of River Road, the water drains into the wetlands then the watershed for Buzzards Bay.
- 5) He felt that this project as a whole is more realistic and more fitting for the area compared to the project that had been proposed previously.

Dick Gregory – 10 River Road

- 1) Felt this project, compared to the old plan of 28 houses, is much better.
- 2) Concerned about drainage to the basin down the hill.
- 3) Concern about where the water will go to.

Mildred Cooper

- 1) Concern about water she has in her basement and if any change to the area will impact her property.
- 2) Concerned about the retaining walls. How high, where they are going and what they are supposed to do.

Mr. Hassett responded by saying they proposed building retaining walls because of the need for a waiver for leveling of the road and grading up to the new homes. The walls are split face concrete block retaining wall which is 16 inches deep and will be from 4 to 5 feet high to make of the difference of the height of the road and the level of the abutters property.

John Beck – 17 River Road

- 1) Concerned about the underground water flow.
- 2) Concerned about water flowing into basements
- 3) Inquired to the possibility of having the drainage go into center of cull de sac with another drainage basin.

Mr. Hassett responded and explained that the drainage has been laid out based on rules and regulations of the Town but he said he would take a look at putting drainage in the cull de sac. He commented that he would analyze the two or three abutters on River Road to make sure they will not be affected.

Seth Spark - 22 River Road

- 1) Currently gets water in basement and does not want it to get worse.
- 2) He commented that is best proposal for the site to date.

Tom Sullivan and Ron Morrison both questioned what was going to be done on the other four acre lot owned by Mr. Mousette.

Mr. Hassett explained that they will be developing the other lot as one single family home with a separate drive.

Vice – Chairman McArdle asked for comments from the Board.

Member Briggs asked if the Applicant could work more closely with the Town Engineer to address the drainage at the base of River Road. If the Applicant puts funds toward addressing the problem it may help the property be more attractive to buyers.

Mr. Hassett explained that he would speak to the Applicant to see if he would be willing to shift more funds to improving the base of the road onto River Road.

Clerk Kokkins commented that he supported Member Briggs comments and there is a need to protect the abutters. He questioned how the soil was tested and evaluated and also expressed concern about the drainage system under River Road and how they will be maintained. He also commented on the retaining walls and how they look to be on the property lines of Mr. Sylvia and Mr. Gregory and what are the grades of their driveways.

Mr. Hassett explained that the driveways are at 10% grade, the soil was tested using a DEP Licensed Soil Evaluator, and the ground water was determined by seasonal high fluctuations and water table. Copies of logs have been submitted with the application.

Ken Motta of Field Engineering explained that the challenges with this site have always been the drainage and grading. He explained that he would like to have the Applicant and Engineer revisit the prior plan from the proposed 40B that had been approved by the ZBA which had more drainage on the site. He then commented that he would like to eliminate the retaining walls and come up with better drainage for the site so there is no flooding on River Road.

Motion made by Member Briggs to grant the waiver for 4100.2 the width of the right of way from 50 feet to 40 feet, seconded by Member Gonsalves.

VOTE: 5-0-0

Motion made by Clerk Kokkins to continue the Public Hearing to August 20 at 7:10p.m., seconded by Member Gonalves.

VOTE: 5-0-0

Discussion Proposed Solar By Law c/o Bill Saltenstall Bill Saltenstall introduced Jennifer Francis from the Energy Committee. He explained that they felt that after Town Meeting approval of using the landfill site for a possible long term lease agreement and Solar Garden, Marion lacked a solar bylaw.

Mr. Saltonstall presented a draft bylaw written by the Energy Committee that had been commented on by Jon Witten (June 12, 2012, on file in Marion Planning Board Office). He explained that he hoped that the Planning Board and the Energy Committee would come to agreement on an appropriate bylaw.

Mrs. Francis explained that the State 40A Law has very few restrictions so their intent with this bylaw was to make it more Marion friendly. There was then discussion about the mechanics of solar gardens and how they worked. The issues of easements and what the setbacks should be were also discussed.

Mr. Saltonstall then outlined some of the changes that had been made from the draft of June 12, 2012. He pointed out that under number 3, Jon had eliminated several definitions and was uncertain why they were eliminated. He agreed that the areas where solar projects would be should be designated on the zoning map.

Member North suggested that there were many other issues that needed to be reviewed and that they needed to look at the big picture before getting into the specifics of a solar bylaw.

Mr. Saltonstall went on to explain that the Energy Committee considered three scales of projects: the really small project, which would not require an electrical permit, the next level is a system between 500 watts and 10,000 watts which is the size of unit that would be put on house for own purposes and the third kind is project which would be used for commercial purposes such as a solar garden or larger. So there would be a need for three types of reviews: the first type no building permit, the second should need a Building Permit but no Planning Board Approval and the third type would be a large ground mounted and would require Planning Board approval.

There was discussion about the larger projects and if it would be more appropriate to have a larger set back; if a site were in a Residential Zoned area it may be appropriate to have larger setbacks. Also of concern was the issue with adjacent easements, and how far and how high abutting trees could be for the neighbors.

It was explained by Tom Silva, Independent Solar Consultant, that the general rule for shading is 2 times the height of the tree, so if there were a 60 foot tree the panels would be set back 120 feet.

Clerk Kokkins explained that originally the objective was to see how solar could be implemented on the Town Landfill where there are no abutters. One of Jon Witten's comments was that we could not identify the landfill specifically because you would violate State Law and spot zoning.

Vice – Chairman McArdle asked what the landfill was zoned. It was determined that it was residentially zoned.

Mr. Saltonstall explained that he felt that Attorney Witten had warned them about spot zoning, so he proposes to write a combined bylaw.

There was discussion about Green Communities and the zoning section requirements to qualify for grants. Mr. Saltonstall explained that they would need to meet zoning

requirements and they felt that would be a problem with the Planning Board because of the by - right section. By limiting the application to the community solar garden and to the public landfills, that by- right provision would not be an obstruction and would satisfy a Green Community requirement.

After discussion it was decided that Mr. Saltonstall would respond to Attorney Witten's comments in writing directly to Jon Witten. Vice – Chairman McArdle will speak with Attorney Witten about how to approach drafting the article, how to avoid violating any spot zoning issues, and address other concerns regarding the solar article.

Comments to the ZBA- Sanford Russell, 5 Main Street

Motion made by Member Briggs to make no comment, seconded by Member Gonsalves.
VOTE: 5-0-0

Approval of Minutes

None to Approve

Approval of Bills

Motion made by Member Gonsalves to approve the bill for Cumberland Farms, from Field Engineering for \$1050.00, 6/20/2012, seconded by Member Briggs.
VOTE: 5-0-0

Motion made by Member Briggs to adjourn, seconded by Member Gonsalves at 9:25p.m.
VOTE: 6-0-0

List of Documents Submitted:

Application River Road

ANR Application and Plan 223 Converse Road

Comments to the ZBA

Bill – Field Engineering – 6/20/2012 Cumberland Farms \$1050.00

Respectfully Submitted,

Stephen J. Kokkins, Clerk

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