

PLANNING BOARD MEETING MINUTES
VIA ZOOM

June 21, 2021

Present: Russ Williston, Chair, Carol Jackson, Roy Mirabito and Peter Christoph

Absent: Tom Christopher

Staff Present: Debra Dennis, Community Planning and Development

List of Documents:

- Planning Board Agenda for June 21, 2021
- Three Citizens Petitions

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The Chair called the meeting to order at 1:00PM.

Attendance Roll Call: Roy Mirabito here, Carol Jackson here, Peter Christoph here and Russ Williston here.

Administrative

Public Hearing

Chairman Williston explained that the Planning Board must hold a public hearing and then make a positive or negative report for Town Meeting. He said due to the time he has prepared a draft positive and negative reports for each of these so as the Board goes through them, they can make edits.

Public Hearing

Chairman Williston read the public hearing notice into record thereby convening the public hearing for the following citizen petition: To see if the town will vote to amend the official zoning map of the Town of Lancaster referenced in section 220-5 of the Zoning Bylaws of the Town of Lancaster by changing zoning district of Map 8 Parcel 45 from Residential District to Enterprise District.

Citizen Comments: George Frantz asked if changing the zoning to an enterprise zone, if this is voted down what happens is it puts the entire project off the entire capital group project off for at least two years is that your understanding can you explain that a little more? Chairman Williston said the state law states that it can't be brought up again for two years unless it received a positive report from the Planning Board.

Jeanne Rich said this article was originally drafted by the Capital Group. As it was something they had requested of the Planning Board after several attempts to get through the Planning Board and failed at

that. She said she took it upon herself to create the citizen petition. This was their first of the three articles and subsequently they changed the article afterwards. She said what they are asking to do is to take the residential area of their land, which is really surrounded by enterprise and as it is located in an area in town that is suitable for commercial and not residential and they're asking that it be made into the enterprise zone, so that they can move forward with commercial development for the town.

Jeanne Rich said she agrees with George's question if this does fail, there is the potential of it not coming back for two years, unless the Planning Board finds in their wisdom and goodwill that this should be brought back. She said she plans to make a motion this evening to refer it back to the Planning Board and see if they will do further review of it and come back in the fall with a bylaw.

Jeanne Rich said that by working with the Lancaster Land Trust -Victoria Petracca, Capital Group and herself and anyone else that is interested in this area and coming back with a proposal that would be a win, win for everyone in the Town of Lancaster, so she hopes that the Planning Board will support her motion this evening.

Victoria Petracca said she wanted to be clear, it is on record that the Economic Development Committee and the Affordable Housing Trust are working with the Capital Group on a mixed use development that is comprised of two other zoning changes, she said she wanted to make sure that was part of the record as the Planning Board deliberates this so that would be an industrial, commercial overlay district or an ICOD with a 40R sub-component which is a mixed use retail and affordable housing sub component of the ICOD and actually the site owner Capital Group wrote.

Victoria Petracca said the letter is dated May 13 and is publicly available on the web page for the Affordable Housing Trust they put their preference in writing for what they would like to see happen with what is, after all, their land and they're requesting that this be brought to the residents for a vote in the fall.

Rob Zidek, 103 Kaleva said he is trying to understand how all the zoning works. He said someone mentioned if this gets voted down, it put things off for two years. He asked if it is voted down does that mean the developer could go ahead with the option for a 40B which would be by right? Chairman Williston said there is a couple things there a 40B is not by right. It is a complicated application and then it can only build it in a residential zone only. What has been discussed is a repetitive article would ban it for two years. It prevents an article from being resubmitted for two years if it gets a negative report from the Planning Board. If the Planning Board gives it a positive report at a hearing, then it can still go forward to Town Meeting again.

Chairman Williston said he has a couple concerns about this change. This change is an aggressive change that just changes the zoning of that parcel. He said he thinks it is misleading because the town is seeing a project that might be proposed for that lot but in reality if the town were to go ahead and make this zoning change, they are allowing any of those enterprise zone uses on that parcel without restriction and compared to the residential zone, the enterprise zone allows a lot of uses that the town might not prefer to see in that area.

He said the area that's proposed for rezoning includes an environmentally sensitive area that's recognized by the state, called the central Nashua river valley area of critical environmental concern, and the destination of that identifies this as an area associated with extensive surface waters wetlands floodplains and aquifers, as well as interrelated riparian and upland wildlife and rare species that habitat forest farmlands and publicly and privately owned open space and that's not something he wrote that's from the designation, and if you go to the state's website, you can read that. It notes that the rare species habitat covers 39% of the area of environmental concern which extends in that property in nearby parcel, and the area proposed for zoning directly abuts an existing residential neighborhood that's the White Pond neighborhood. He said if the Planning Board and the town were to approve this those residents would be at the mercy of whatever development appears on this parcel from this developed from the current owner or in the future, it could be, if it changes hands the plans could change, and it may be something that people don't anticipate, and that parcel abuts Conservation land and trails that are owned by the town. The proponent of this change is not the owner of that parcel, and that the owner is not here today, and we don't have anything to indicate that they require or desire this change at this point so those are the cons that he sees against this.

Peter Christoph said this area is of critical environmental concern. He said he is concerned with the water running downhill into the Nashua River and into the Cook Conservation area.

Frank Streeter asked if the Planning Board is willing to accept a vote remanding the three articles to the Planning Board for further study and if so, is the Planning Board going to say anything about this option.

Chairman Williston said he guess's the Board will have to decide, but he doesn't think if someone were to make that motion, I don't think we have to accept it.

Phil Eugene said there is a lot of wetlands, and he understands there's a lot of wetlands there and Conservation land but isn't the ultimate yea or nay on that a function of what MEPA evaluates from the site plan and where the buildings are? He also commented that he has seen some site plans and there are a lot of runoff sediment ponds that the developer plan to put in and again that's why he would have to defer the potential impact to a state agency that does that as their main line of work. Chairman Williston said Storm water permits would be the Planning Board.

A motion was made by Peter Christoph to close the public hearing and seconded by Roy Mirabito.

Roll Call Vote: Roy Mirabito yes, Peter Christoph yes, Carol Jackson yes and Russell Williston yes.

Chairman Williston polled the members as to what report they would like to submit. Roy Mirabito said negative, Carol Jackson said negative, Peter Christoph said negative, and Russell Williston said negative.

The Board members went over the draft negative report that Chairman Williston drafted. A few typos were pointed out that Chairman Williston corrected.

A motion was made by Carol Jackson to use the negative determination letter and was seconded by Peter Christoph. Roll Call Vote: Roy Mirabito yes, Carol Jackson yes, Peter Christoph yes and Russell Williston yes.

Public Hearing

Chairman Williston read the public hearing notice into the record thereby convening the public hearing.

To see if the town will vote to amend the Official Zoning Map of the Town of Lancaster referenced in section 220-5 of the Zoning Lancaster Bylaws of the Town of Lancaster and attached as 220 Attachment 2 to said Bylaws by changing the Zoning district of the below-described land from the Residential District to the Enterprise District.

The land subject to this change is described as follows:

A portion of Assessors Map 8, Lot 45 situated in the residential District and bounded as follows:

EASTERLY by another portion of Assessors Map 8, Lot 45 situated in the Enterprise District and by the westerly borders of Assessors' Map 9, Lot 4 and Assessors' Map 13, Lot 10:

SOUTHERLY by the northerly border of Assessors' Map 13, Lot 10;

WESTERLY by the northerly borders of Assessors' Map 13, Lot 10 and the easterly border of Assessors' Map 13, Lot 1;

NORTHERLY by the southerly borders of Assessors' Map 8, Lots 39, 39A, 37H and 37F: the easterly border of Assessors' Map 8, Lots 40E, 40D and 40C and the southerly borders of Assessors' Map 8, Lots 43 and 44.

Being the same land shown as "proposed Enterprise Zone" and "100' No Build Buffer on a sketch entitled "Proposed Re-zoning Plan, Lancaster, MA" which also shows the land's northern boundary as "New Proposed Enterprise District Zoning Line."

Carol Jackson said this is the same as #1 with more details.

Chairman Williston noted the citizen petition doesn't provide any details about what the new build buffer is exactly.

Roy Mirabito said he finds it unusual that the proponent of this amendment is not the owner of the property, and that the owner hasn't provided any indication that they require or desire this summoning change which would lead him to not approve this.

Victoria Petracca reiterated that the Economic Development Committee and the Affordable Housing Trust are working hard right now, and they have been for several months on a mixed -use development that would require a different type of zoning change and industrial, commercial overlay districts. She said they are working well with Capital Group. Capital Group has made their desires known in terms of rezoning as the landowner. She said two town groups are working with Capital Group right now and they would like to bring that forward in the fall.

Chairman Williston said his comments he stated on the first article apply to this one as well because they are similar. He also commented about the sketch and how the no build buffer is not really described anywhere in the town bylaws, and it wouldn't be exactly clear.

Peter Christoph said he can't support this citizen petition. He said the fact remains that half of this proposed development is right in the middle of an area of critical environmental concern.

A motion was made by Roy Mirabito and seconded by Carol Jackson to close the public hearing on Article 16. No discussion. Roll Call Vote: Roy Mirabito yes, Carol Jackson yes, Peter Christoph yes and Russell Williston yes.

The Board discussed submitting a negative report on Article 16. They discussed typos on the negative report.

A motion was made by Peter Christoph to approve the negative report that was drafted by Chairman Williston. The motion was seconded by Carol Jackson. No discussion. Roll Call Vote: Roy Mirabito yes, Carol Jackson yes, Peter Christoph yes and Russell Williston yes.

Public Hearing-To see if the Town will vote to amend the Lancaster Zoning Bylaw at Article IV, section 220-12. Building Dimensions, subsection A, by deleting the subsection in its entirety and replacing it with the following:

A. Building or structure height. No building or portion thereof or other structure of any kind shall exceed 48 feet building or structure height in the EZ District, 40 feet in the LI, LI2 and GI Districts or 32 feet in any other district, except as provided in Subsection B.

Chairman Williston read the public hearing notice into the record thereby convening the public hearing. He said this public hearing corresponds to Article 17 on the Town Meeting warrant.

Carol Jackson said when the developer first brought this up it was for only one building. She said she doesn't understand why they would change a whole district for one building where they can request a special permit to change the building height.

Roy Mirabito said this would include it in other EZ districts within Lancaster not just the one we are discussing.

Chairman Williston said this zoning change would impact all EZ district zoned areas in the Town of Lancaster without exception. The existing residential neighborhoods rely on screening that was designed with an expectation of the 32-foot maximum building height. He said developments that are in the future constructed with an IPOD special permit may include multi-family housing and that this amendment would allow even larger multifamily structures than were previously contemplated and no research has been conducted or presented on the visual impact. He commented that this was submitted by a resident and not the owner.

A motion was made by Roy Mirabito to close the public hearing on Article 17. Carol Jackson seconded by motion. No discussion. Roll Call Vote: Roy Mirabito yes, Carol Jackson yes, Peter Christoph yes, and Russell Williston yes.

Chairman Williston polled the members as to whether they were in favor of a positive or negative report. Carol Jackson said negative, Roy Mirabito said negative, Peter Christoph said negative, and Russ Williston said negative.

The Board went over the negative report on Article 17.

A motion was made by Roy Mirabito to approve a negative report for Article 17. The motion was seconded by Peter Christoph. No discussion. Roll Call Vote: Roy Mirabito yes, Carol Jackson yes, Peter Christoph yes, and Russ Williston yes.

Chairman Williston said he will finalize these reports and send them to the Board of Selectmen and then at Town Meeting as the articles arrive on the table, he will read these reports.

Adjourn

A motion to adjourn was made by Carol Jackson and seconded by Peter Christoph. Roll Call Vote: Carol Jackson yes, Roy Mirabito yes, Peter Christoph yes, and Russ Williston yes.

The meeting was adjourned at 1:51PM

Respectfully submitted

Debra Dennis