

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street - DONN B. GRIFFIN ROOM
TUESDAY, NOVEMBER 27, 2018 - 6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman Jim Joyce, James Atkinson; Joseph McParland; Allan Peterson; Craig Chadwick; and David Harris, remote participation via phone.

MEMBER ABSENT: Mary Maslowski

OTHERS PRESENT: Charleen Greenhalgh, Town Planner; John Demarest; William Crowell, Steve Pajka; and Thaddeus Eldredge

CALL TO ORDER - 6:30 PM by Chairman, Joyce with a quorum present.

Chairman Joyce announced the Recording & Taping Notification: As required by law, the Town may audio or video record the meeting. Any person intending to either audio or video record the open session is required to inform the Chair.

PB2018-37, Osprey Landing LLC, Rescission Plan 3 and 4 Belmont Avenue

Representative: William Crowell, Esq. and John Demarest, P.L.S,

The Chair opened the hearing by reading the legal notice into the record. Keith LaValley, applicant seeks approval of a rescission plan as set forth in MGL c. 41 §81.K-GG and Chapter 400-11.C, Article II of the Town Code. The request is to rescind a portion of the private road between 3 & 4 Belmont Ave. as shown on the plan entitled “Rescission Plan of Land in Harwich, MA - Rescinding a Portion of Belmont Avenue as shown on the Plan Book 574 Page 5 & Plan Book 594 Page 59”, dated October 16, 2018, prepared for Keith LaValley and prepared by Demarest Land Surveying. The locus is shown on Map 77, between Parcel A20-1-9 and A21-1-9 and it is located within the R-R and W-R zoning districts.

Mr. Crowell distributed photographs of the location. It is off Deport Street onto Belmont Avenue West and the property runs down to Dark Bottom Pond. The applicant seeks to develop one (1) larger lot by rescinding the road, which would result in a lot with 48,323 square feet total. Mr. Crowell provided a history of the property in this area, which dates back to a subdivision plan done in 1914. A number of small lots were create. The property in question is made up of approximately 18 little lots. The plan reference in the notice has already combined the parcels, while the plan before the Board would create one lot. In Massachusetts when a property abuts a private road, the ownership is to the middle of the road, therefore these two existing lots are the only ones to abut the road to be rescinding, so these are the only ones to have use of the road. Mr. Crowell has completed deed and title research and he cannot find any rights to the road from any other persons. This is a paper road and it does not physically exist on the ground.

Mrs. Greenhalgh read from her staff report: Engineering/Survey, Fire and Highway have no concerns. Police: No issue with this request as it appears that area involved is a wooded, unimproved area. Conservation: No concerns with current application. Lot development will required Conservation Commission approval. The Health Director has no concerns with the application; however, full Board of Health review will be required for this rescission and any conditions/requirement imposed will need to be noted on the Plan prior to endorsement by the Planning Board. This is a fairly straight forward request. A paper road exists between two lots.

The road would be rescinded and the portion of the paper road would be merged with the two lots, to create one (1) larger building lot. The waivers are appropriate pertaining to Appendix 4B of Section 400 of the Code of the Town of Harwich; 1) Item 12 – Two copies of drainage calculations; 2) Item 13 – Three proposed road names; 3) Item 14 – A computer disc containing a file of the subdivision; 4) Item 27 – Notation regarding a covenant to be filed with the plan; 5) Item 28 – Notation stating Board of Health approval/restrictions (this will need to be done once the Board of Health has made its decision); 6) Item 45 – Benchmark(s) taken from USGS datum shall be established within the subdivision. NAVD 1988 Benchmark shown on Topographic plan; 7) Item 47 – Bearings and distances to any Massachusetts Coordinate System point within 500 feet; and 8) Items 49 – 63 – Plan and Profile.

Mr. McParland noted that a portion of the property is located in Brewster, will approval be required. Per Mr. Crowell he believes not as it is a very small portion of the property. Mr. McParland asked about the two parcel on either side of Belmont Ave. West. Per Mr. Crowell, the titles are not clear. Mr. Crowell noted that the resulting lot from the rescission would have frontage on Shore Street as well as Belmont Avenue West.

Mr. Chadwick noted that he has viewed the property and there is a sign at Depot Street stating “Littlefield Pond Road”, is this a concern or a problem. Per Mr. Crowell, no, the plan rules over the street signs. Mr. Atkinson clarified that the plan rescinds Belmont Avenue, not Belmont Avenue West. Mr. Harris noted that Belmont Avenue West and east of Belmont Avenue. It was further noted that across Depot Street, there Belmont Avenue.

Abutter Steve Pajka, 1 Littlefield Pond Road, asked what address this property would have. Per Mr. Demarest the current address is 3 and 4 Belmont Road. Mrs. Greenhalgh noted that the Assessors would ultimately provide both the parcel number and the street address for this property. A brief discussion ensued regarding the buildability of the parcels are they exist.

Hearing no further questions or comments Mr. McParland moved to close the hearing at 6:57 pm, seconded by Mr. Atkinson, so voted unanimously by rollcall vote. 6-0-0.

The Board reviewed and referenced the follows documents:

1. Planning Board Application Form B-1
2. Letter dated October 16, 2018 authorizing John Demarest to act on the owner and applicant’s behalf.
3. Letter dated 11/15/18 from John Z. Demarest, Jr. requesting waivers.
4. Copy of Rescission Plan of Land in Harwich, MA, Rescinding a portion of Belmont Avenue as Shown on Plan Book 574 Page 5 & Plan Book 594 Page 59, prepared for Keith LaValley, dated October 16, 2018, revised November 15, 2018, scale 1” = 40’, by Demarest Land Surveying.
5. Topographic Plan of Land in Harwich, MA, Rescinding a portion of Belmont Avenue as Shown on Plan Book 574 Page 5 & Plan Book 594 Page 59, prepared for Keith LaValley, dated November 15, 2018, scale 1” = 40’, by Demarest Land Surveying

Members voting on this matter were: Mr. Joyce, Mr. Atkinson, Mr. McParland, Mr. Chadwick, Mr. Peterson, and via remote participation (phone) Mr. Harris. All votes taken were by roll call vote.

Findings of Facts

The Board members reviewed the criteria for granting a Rescission Plan and following a motion by Mr. McParland and seconded by Mr. Atkinson, the Board voted unanimously (6-0-0) by roll call vote to adopt the following findings of fact:

1. The property is located within the R-R and the Water Resources zoning districts.
2. A paper road would be rescinded as a result of this plan.
3. A lot would be created that meets the necessary zoning requirements.
4. No road construction would be required, thus negating the need for a Planning Board covenant agreement.

Waivers

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously by roll call vote to approve the requested waivers pertaining to Appendix 4B of Section 400 of the Code of the Town of Harwich as the rescission of a portion of Belmont Avenue West does not necessitate that this information be provided. The waivers are as follows:

1. Two copies of drainage calculations.
2. Three proposed road names.
3. A computer disc containing a file of the subdivision.
4. Notation regarding a covenant to be filed with the plan.
5. Benchmark(s) taken from USGS datum shall be established within the subdivision. NAVD 1988 Benchmark shown on Topographic plan.
6. Bearings and distances to any Massachusetts Coordinate System point within 500 feet.
7. Plan and Profile.

Definitive Subdivision Decision

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously by roll call vote to approve with conditions the application for PB2018-37, Osprey Landing LLC, owner, Keith LaValley, applicant for a rescission plan as set forth in MGL c. 41 §81.K-GG and Chapter 400-11.C, Article II of the Town Code, which would rescind a portion of the private road between 3 & 4 Belmont Ave. as shown on the plan entitled “Rescission Plan of Land in Harwich, MA - Rescinding a Portion of Belmont Avenue as shown on the Plan Book 574 Page 5 & Plan Book 594 Page 59”, dated October 16, 2018, revised November 15, 2018 prepared for Keith LaValley and prepared by Demarest Land Surveying. The locus is shown on Map 77, between Parcel A20-1-9 and A21-1-9 and it is located within the R-R and W-R zoning districts. The following conditions are imposed and required to be submitted prior to endorsement of the plan and covenant: 1) Board of Health conditions shall be noted on the Rescission Plan prior to endorsement.

Meeting Minutes:

Mr. McParland motioned approval of the meeting minutes of November 15, 2018 with one minor correction, seconded by Mr. Atkinson, so voted by rollcall vote (Joyce – Yes; Atkinson – Yes; McParland – Yes; Chadwick – Yes; Harris – Yes and Peterson – Abstain) 5-0-1.

Discussion: Mr. Chadwick asked if a discussion about “sandwich board” sign (signs that someone can wear over their shoulders and walk around) should be discussion. This will be placed on the next agenda. He also asked if there were any updates on the cell tower in East Harwich where a park was proposed. The response was no.

PB2018-33 Heirs of Mark Nickerson, Endorsement of 8 Lot Subdivision – Blossom Circle

Mrs. Greenhalgh explained that applicant seeks endorsement of a definitive subdivision plan and covenant following the expiration of the 20-day appeal period. No appeals were made. Mr. McParland moved to endorse the plan and covenant, seconded by Mr. Atkinson, so voted unanimously by rollcall vote. 6-0-0.

Briefing and Reports by Board Members

Mr. McParland noted that the Capital Outlay Committee (COC) has a meeting on November 27th. The request for \$200,000 for the update of the Local Comprehensive Plan has been supported by the COC. Mr. Atkinson reported that the CPC has begun its review of the applications received, 8 total. Four were presented by the applicants earlier in November and the remaining will be presented in December. There is adequate funding available to fund all the projects, if CPC votes to approve. Mr. Chadwick provide a copy of the Training documents that he received at the CPTC training. This will be distributed by Mrs. Greenhalgh

Adjourn

On a motion from Mr. McParland, seconded by Mr. Atkinson, the meeting adjourned at 7:40pm.

Respectfully submitted,

Charleen Greenhalgh
Adopted: 12-11-18