

Meeting Book

5/11

Oak Bluffs Planning Board
Minutes
Meeting of May 11, 2005

Members Present: John Bradford, David Wessling, , Julie Sullivan
- Richard Combra arrived at 6:15

Meeting Called to order at 6:12 pm

2.)Gail Barmakian from ZBA spoke briefly about problems with previous by-laws (pre-existing non-conforming structures) It seem to have been resolved with the new by-laws. In future she re-requested Planning Board meeting with ZBA before proposing new by-laws

Correspondence- Discussion re conservation form for approval for Provost pier. Was voted unanimously to approve and signed.

3.)Chuck Gilstead - re: parcels 199-20, Map 8. Presented plot plan for dividing land into three lots. Two lots obviously had sufficient frontage but .members had questions regarding the third lot.

Chuck said frontage would be along the pre-existing dirt road that had been there for many years. John - speculated if road could be frontage. Owner Jack Reagan explained the layout of the plan. Members discussed that third lot in great detail

John Bradford read the sub-division by-law which said frontage was along front of lot. Julie agreed road could not be used for frontage to the lot.

David requested that the question be referred to Town Counsel. On a motion by David, second by Julie, it was unanimously voted to refer question re: frontage to Town Counsel.

Richard made a motion to approve plans if Town counsel approved of frontage for third lot.

There being no second to the motion, there was no vote.

A letter from _____ regarding the area of the area discussed stating her concerns for the development in that area. John responded that several of her questions came under the purview of the Building Inspector but the Planning Board would respond to her re: the frontage question which if proper would mean that Planning Board approval would not be required.

Michael Underword also spoke re: problems that might be caused for the neighborhood if that density of construction was approved..

After the remaining correspondence was reviewed, on a motion by Dave and Second by Richard it was voted unanimously to adjourn the meeting at 7:05 pm.

FACSIMILE TRANSMITTAL SHEET

REYNOLDS, RAPPAPORT & KAPLAN, L.L.P.
P.O. BOX 2540
106 COOKE STREET
EDGARTOWN, MASSACHUSETTS 02539

TELECOPIER NUMBER: 508-627-3088

GENERAL OFFICE NUMBER: 508-627-3711



FROM: Michael A. Goldsmith, Esq.

DATE: May 23, 2005

DELIVER TO: John Bradford - Chairman, Oak Bluffs Planning Board

NUMBER OF PAGES BEING TRANSMITTED, INCLUDING COVER SHEET: 4

SENDING OPERATOR'S NAME: Julie M. Higdon

CLIENT: 427

MATTER: 5

LOCAL: 508-693-9215

LONG DISTANCE:

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REYNOLDS, RAPPAPORT & KAPLAN, L.L.P.
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OF COUNSEL
KATHRYN R. HAN

May 23, 2005

VIA TELEFAX - 508-693-9215

Mr. John Bradford
Chairman, Oak Bluffs Planning Board
PO Box 1327
Oak Bluffs, MA 02557

RE: Form A Application of John P. Reagan

Dear John:

You have asked for our opinion on whether the lots shown on a "Plan of Land in Oak Bluffs, Massachusetts prepared for John P. Reagan" (the "Plan"), dated April 6, 2005, meet the frontage requirements of the Oak Bluffs Zoning By-law (the "By-law") to require the endorsement "Approval Under the Subdivision Control Law is not Required" ("ANR") under G. L. c. 41, § 81P. The Plan seeks to reconfigure the boundaries of land identified on Assessors Map 8, Parcels 199 & 200, into three lots. Lots 2 and 3 have adequate frontage on existing public ways (either South Street or Pacific Avenue) to satisfy the By-law.¹

Lot 1 is 10,331 square feet in area and is not bounded by a public way. Access is proposed over an existing, approximately ten (10) foot wide dirt road. The dirt road runs the width of the lot (approximately 108 feet), and is located entirely within its boundaries. While the southern edge of the dirt road is within a few feet, and roughly parallel to, the southern lot line, Lot 1 and the dirt road do not share a common boundary. The Plan designates that dirt road is located within a twenty (20) foot wide "driveway easement".

Under the twelfth paragraph of § 81L (which defines "subdivision"), a proposed division of land is not a subdivision - and therefore is entitled to an endorsement under § 81P - if:

¹ The land is in the R-2 zoning district, which has minimum dimensional requirements of 10,000 square feet and 80 feet of frontage.

Mr. John Bradford

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"every lot within the tract so divided has frontage on (a) a public way . . . (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width . . . and adequate construction to provide for the needs of vehicular traffic Such frontage shall be of at least such distance as is then required by zoning"

The Board has determined that the dirt road is adequate for access under § 81L, ¶ 12(c) to Lot 1, and so the sole question is whether the dirt road qualifies as frontage for an ANR endorsement.

Neither the Subdivision Control Law nor G. L. c. 40A define "frontage". See G. L. c. 41, § 81L; Marinelli v. Board of Appeals of Stoughton, 440 Mass. 255, 262 (2003). Section 11.0 of the By-law defines frontage as follows:

"A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot"

The By-law defines the following related terms:

Lot: A continuous parcel of land with legally definable boundaries.

Lot Area: The horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

Lot, Depth: The mean distance from the street line of the lot to its opposite rear line

Lot Line: A line dividing one lot from another or from a street or any public place.

Mr. John Bradford

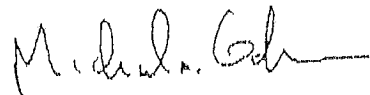
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Street: [A] way determined by the planning board to have sufficient width . . . to provide for the needs of vehicular traffic in relation to the proposed use of the land

The traveled portion of the dirt road does not provide frontage for Lot 1. Neither "sideline" of the dirt road "conincid[e]" with a "lot line". The By-law requires the boundary of a lot to run along the street providing access thereto. The related definitions confirm our interpretation: 1.) a "Lot Line" must divide a lot from either a street or another lot; and 2.) the "Depth" of a lot is measured from where it meets the street - that is, its "frontage" - to the "rear" lot line.

Since the dirt road runs within the boundaries of Lot 1, it cannot provide the frontage required under the By-law.² Please do not hesitate to call if you have any other questions.

Very truly yours,



Michael A. Goldsmith

MAG/jmh

N:\17Oak Bluffs\Planning Board\reagan opinion.wpd

² Were the driveway easement to be considered the frontage, Lot 1 would appear to have insufficient area to qualify for a building permit under the definition of "Lot Area".

approved 8/16/05

Oak Bluffs Planning Board
Minutes
Meeting of June 8, 2005

Members Present: John Bradford, David Wessling and Julie Sullivan

Others Present: Doug Hoehn, Chuck Gilstead, Jack Reagan, Maureen deLoach and James Norton

Meeting called to order at 6:45 pm

1.) Chuck Gilstead—reconfigured lots 1 & 2 from a previously presented plan to comply with frontage requirements. John Bradford read a letter from town counsel explaining the reason for prior refusal. Chucks' plan has now been re-configured. Julie questioned use of road to increase sq. footage for lot 2 and also frontage for 1. David agreed with Julie regarding same. Julie—the road legally belongs to lot 2 and made a motion that the new configuration be referred back to counsel for a legal opinion. On a 2nd by David it was so voted unanimously.

Jack Reagan asked what would happen if the easement were taken out? Would Davis Ave. Be considered for frontage. John responded it needed to be contiguous 80" frontage.

2.) Doug Hoehn - requested release for lots in Fresh Pond Estates. Presented letters that showed the water lines, roads and utilities are now in. John stated he had spoken with Rich Combra who had checked out the roads. Lots are # 6,,7, 11. and 12. After brief discussion, David made motion that the Planning Board approve the Form G Certificate of Performance. On a second by Julie - voted unanimously.

3.) James Norton - explained the history of the Manter Tisbury Public School Fund. The present concern is to unlock lot 14, a 7 acre area, to Tisbury by an 40" easement to the lot. The easement being requested passes through Tisbury and Oak Bluffs. There is presently a 10" easement. John explained that would be legal for a single lot but not for subdivisions and explained that once there is an easement they would have to have road for sub-division.

Jim explained that the presentation information he distributed is just a conceptual plan for a School Employee Housing Project.

(Planning Board member Kyle Fiore arrived at 7:30pm)

Jim - need in anticipation of future plans, a statement from the Oak Bluffs Planning Board stating that easement of that description would be totally adequate to reach the sub-division. Perhaps a perpetual right of access.

Maureen deLoach stated that the lots could be included in the affordable housing allotment for Oak Bluffs.

On a motion by Julie and second by David with Kyle abstaining, because of his late arrival, it was voted 3 in favor with 1 abstention, to endorse the following:

REYNOLDS, RAPPAPORT & KAPLAN, L.L.P.
COUNSELLORS AT LAW

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MICHAEL A. GOLDSMITH
CYNTHIA J. GLAZIER
KAREN D. BURKE

June 22, 2005

VIA TELEFAX - 508-693-9215

Mr. John Bradford
Chairman, Oak Bluffs Planning Board
PO Box 1327
Oak Bluffs, MA 02557

RE: Form A Application of John P. Reagan

Dear John:

This letter supplements my correspondence to you dated May 23, 2005. On June 15, 2005, you furnished me with a revised plan showing that the lot line of Lot No. 1 and the boundary of the dirt road providing access thereto now "coincide" for 81 feet. Based on that revision, Lot 1 now has "frontage" on the dirt road under the definition contained in the Oak Bluffs Zoning By-law. Since the revised plan does not show a subdivision under G. L. c. 41, § 81L, par. 12, it is now entitled to an ANR endorsement.

Very truly yours,



Michael A. Goldsmith

MAG/jmh

n:\u27\Oak Bluffs\Planning Board\Bradford Form A supp ltr

21 Pacific Avenue
Oak Bluffs, MA 02557
May 1, 2005

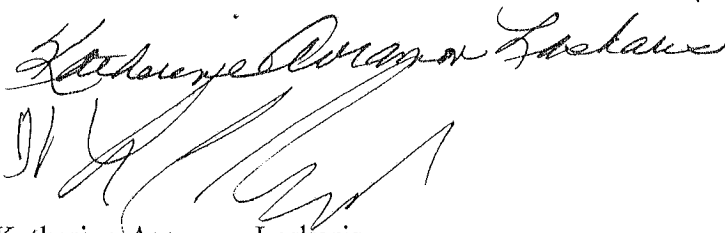
John Bradford
Chairman, Planning Board- Town of Oak Bluffs
Oak Bluffs Town Hall
School Street
Oak Bluffs, MA 02557

Dear Mr. Bradford:

It has come to our attention that the property adjacent to our home at 21 Pacific Avenue, Oak Bluffs is being developed for three free- standing homes with attached garages and apartments above. We refer to the parcel of land on the corner of Pacific Avenue and South Street next to the cemetery. We are concerned that this plot may not be zoned for this density and number of dwelling units. We would like to know if it has the required frontages, setbacks and floor/area ratios as required by the Oak Bluffs zoning bylaws. Our concern is of potential excess in traffic, noise, and density to the existing neighborhood.

We look forward to the favor of a reply. We can be reached at:
Email: llaskaris@aol.com
Phone: (617)522-7976

Very truly yours,

The image shows two handwritten signatures in black ink. The top signature is cursive and reads "Katherine Avramov Laskaris". Below it is another cursive signature that appears to be "Dr. Lewis L. Laskaris".

Katherine Avramov Laskaris
Dr. Lewis L. Laskaris

APPROVED 8/16/05

6/27/05

Oak Bluffs Planning Board
Minutes

Meeting of June 27 , 2005

Members Present: John Bradford, Kyle Fiore and David Wessling. Julie Sullivan arrived at 12:10pm

Meeting called to order at 12:05 pm

1. Chuck Gilstead - Opinion from Town Counsel stated he has satisfied lot line reconfiguration issue. John said he had spoken with counsel and Chuck was correct. Julie still disagreed with that opinion. Motion by David to endorse the form A for John Reagan subdivision subject to guidance from counsel. Second by Kyle. Voted with three in favor and one opposed as Julie stated she still has problems with the plan. The plan was signed by the Board.

2. Preserve at Southern Woodland -Larry Duchane present changes in the plans. Said had been given copy of letter from Schmidt and got reply from him acknowledging that they had made requested changes. P.B. never received copy of the changes., Larry's office was faxing copy of letter to meeting. Changes: Section 32R- re: slope drainage plans. , Lights changed to conform with 150, met all requirements except for road coming in.. Added bounds and all lots are bound, Street sign design- met with Rich Combra re sign at County Road to get correct Language. Left it to Rich's discretion. David - motion to amend change 5 to refer to Highway Supt. opinion, second by Julie - so voted. Change 6 - Re: catch basin., change 7 - made to correct drafting error..David asked if Commissioners' Way was changed to Paddock Row? The answer was yes. # 8 - drains relocated #9 -drain manholes (none exist) , #10 Elevation based on calculation. # 12-Chase Road- just wanted to make trail natural regarding vegetation, road cover, etc.#13 - Specs .for water line from CLB19 to C900.Request from applicant.# 14 RE: OB Water District Spec.5'5" cover on hydrants.-changed to min. of 5'. Deacon approved. John read requirements for changes. Larry's letter from John Schmidt should have all info for determination . Larry -everything went to Mark Bobrowski.

Motion by David, second by Kyle to continue meeting to 1:30 to await arrival of fax from Larry's office - voted.

Received fax and John read. There is a need to go back to look at Chase road as it was only item not on the fax. Larry- several options on covenant. Discussion followed. Basically -driveways and everything must be completed before lots may be sold. David -saw no impediment.

Motion by Julie, second by Kyle to approve changes. - unanimous. Ron Mechur stated that a security gate would be installed to prevent illegal access.

Correspondence - John read and distributed numerous order of conditions. Letter from Habitat for Humanity requesting funds for their projects. David recluded himself as he is a director. On a motion by Kyle and second by Julie, voted unanimously to consider this request with money

A perpetual right of easement for travel by foot and vehicle to provide access, as required by the Oak Bluffs sub-division rules and regulations, from the Massachusetts State Highway over the "Old Holmes Hole Road" to the north corner boundary of Lot 14 shown on a plan of Land for Henry Vickers, Trustee, recorded as Tisbury Case File # 41, (recorded as Lot 24-18 on the Town of Oak Bluffs Assessors Map, and Lot 42-16 on the Town of Tisbury Assessors Map) and a 40 ft. Right of Way along the boundary line between the Town of Tisbury and the Town of Oak Bluffs, in a southerly direction in and over lots 14, 13 and 12 as shown on said plan to a 5" C.B. marking the west boundary of the Lot of Henry and Mary C. Manter, as shown on Plan of Land in Tisbury, Mass. Surveyed for Henry and Mary C. Manter Tisbury Public School Fund, Eileen T. Whiting, Trustee, February 8, 1989, Scale: 1" =100', Dean R. Swift, Reg'd Land Surveyor, Vineyard Haven, Mass., recorded as Oak Bluffs Case File 315.

See also "Plan of Land in Oak Bluffs and Tisbury, Mass, Surveyed for Timothy W. McLean, Trustee under the Will of Ellis H. Manter, March 3, 2003, Scale 1"= 50', Vineyard Land Surveying, Inc., West Tisbury, MA.

Motion to suspend regular meeting to enter into the scheduled public hearing at 8:48 pm. by David, second by Kyle- so voted.

Meeting reconvened at 7:55 p.m.

John gave an update on the progress at the Preserve at the Southern Woodlands now that Brian Lafferty is not associated with the project. David - need the Field Engineer's report before signing off on the Form F. John stated can sign off just on what is complete but need list of items needing to be completed. Casey Sharpe notified John that \$50,000 was received from the project that was earmarked for affordable housing in Oak Bluffs. David- the Planning Board needs to set priorities for Affordable Housing and should be starting discussion on the affordable housing plans at the Blinker.

Correspondence- Letter from Priscilla Sylvia regarding need for renumbering DCPC Regs due to changes in zoning By laws as they are tied to old zoning.

John briefly discussed the confusion over the Leslie Look request for boarding house permit which resulted in some delays. As Planning Board only acts on permits in commercial zones, it was necessary to refer the project to the Zoning Board of Appeals.

On a motion by David, second by Julie -voted unanimously to adjourn at 8:45p.m.

①

12:05

Kyle, John, David,
Julie Sullivan 12:10

6/27/06
~~other~~ Present
AW Meekie
? ~~Cost~~

1) Chuck Gilstead - Lot line refigureation issue -
John Town Council - successful - Friday issue

matter - David
enclose format - ^{SUBDIVISION} John Rayner
subject to guidance in

Julie - stop - still has problem

(2) Kyle -

3 = year
plan signed
1 app. - Julie's parcel

DAVID - Plan change on S.W.

The Preserve at the Woodland

(2)

same

11:50

6/27/05
LARRY DOCHMAN

Re: Changes in plans -
Sect 32R - Re:

Re: slope .0074% added

#3. nights -

Sta 2025 - - Change curve to meet -

sites - (not to have) - conform to 150 site

line dist.

marker on roadway & on line

LARRY met all require. except Rd coming in.

added Bound - - all lot records

John 552 - - street sign design -

Larry - met @ Ennis - prop st sign every Rd
wanted Larry - to Rich description -

DDUO - what design - Larry - no spec. detail

1) change master - to refer to HW Sects.

change 5 - field decrease to Sept of St

2nd July - unan

change 6 in to 7 correct draft errors

Comments WA 4 - new Paddock Rule

8 - moved rebar (9)

10 - Change based on calculation

12 - Larry - ? just wanted to make natural

Change WA - Re. Vegetation

13 Spec. wall line

CLB 19 to C 900

(Request from Applicants)

or equal

14) Re: - OB. Water Spec.

5' - 5" Burly
on Hydrology

Changes to min 5'

Deacon Agree

3) John Read - Request

Larry's letter from John should have had info & documentation
Larry - think everything went to Bolanowski.

DAVID - free water Pond. Is to an area of John's letter - Chase Rd detail (CR)

Water - 5.1 - subject to Decision

(A) - storm water management - need couple of things from John
Larry - Mark B. - handled

1) meet DAVID - entrance to 1:30 -
2nd Kyle -

Received Fax from David
Letter read

need to go back to look at Chase Rd -
only items not on fax

David - thought reasonable

Larry - several options or covenants -

discussed - basically - cleanup & everything completed before they sell lots led

John discussion

David - saw no impediment

1) Jellee - move to approve based on Chase

2) Kyle - unanimous

1:30

(4)

Call Kichell
Re: 9:00 -> entrance
court, etc

Bob will be security gate installed

John correspondence

DAVID - refused himself (Director)

max - Kyle - and Julie keep out
all unannounced entries

John Dennis - Chuck - Sullivan

Julia refused

1) Dave - must appear special
permit ~~request~~ - warn -

Pages 52

Call Kyle - unannounced

Edgar - 1) Julie

2) Dave

Unannounced

11:30

will be hold meals
to discuss first ever
and ask you to attend at
the MW