

MEMBERS	Mitch Martin	Chairman
PRESENT:	Paul Ziarnowski	Vice Chairman
	Elizabeth Schutt	Secretary
	Dave Bowen	
	Jim Liegl	
	Mary Ann Rood	
	David Stringfellow	
ABSENT:	Jay Boardway	Town Board Liaison
ALSO	Sarah desJardins	Planning Consultant
PRESENT:	Michael Kobiolka	Town Attorney
	James Hannon	Town Engineer
	Glenn Christner	Deputy Code Enforcement Officer
	Thelma Faulring	Secretary to the Boards and Committees
	Dana Darling	Co-Applicant Deanna Drive Subdivision Extension
	Ron Yormick	6405 Deanna Drive
	Mark Jablonski	Willow Drive
	Marian Schiralli	Deanna Drive
	Brian Schiralli	Deanna Drive
	Shawn Mullen	Deanna Drive
	Joe Palumbo	Engineer – Deanna Drive Subdivision Extension
	Sean Hopkins	Attorney – Deanna Drive Subdivision Extension

**MEETING TO ORDER**

Chairman Martin called the meeting to order at 7:35 PM. The first item on the agenda is the proposed Deanna Drive Extension.

**DEANNA DRIVE SUBDIVISION EXTENSION PRELIMINARY PLAT REVIEW**

Mr. Martin: Is there anyone here to represent them?

Sean Hopkins from the Law firm of Hopkins, Sorgi and Romanowski on behalf of the applicant also with me is Joe Palumbo, the Project Engineer from Carmina, Wood and Morris as well as Dana Darling.

- Last meeting we agreed to extend the deadline of an issuance on the pending request for preliminary plat approval as a result of some proposed conditions that have been circulated
- We have been provided with a copy of the letter and comprehensive analysis that was prepared by Mr. Hannon,
  - basically agreeing with our position that those 15 proposed conditions first have no basis in the Town's subdivision regulations
  - secondly and just as important have absolutely no basis in New York State Town Law, especially those sections governing subdivision approval
- We are not at Final Plat approval
- Mr. Hannon has conducted a Comprehensive Analysis and previously provided Mr. Palumbo with a letter with a wide assortment of concerns that need to be addressed in connection with the preparation of the Final Plat application, those are relatively straightforward comments, not unexpected in a subdivision in this Town or any other town in WNY
- What we would ask you to do this evening is grant preliminary plat approval without the 15 conditions that have been previously proposed
  - If there is any need to have any discussion about any of those particular conditions, specifically we would welcome that opportunity but it would be our position that the Preliminary Plat that's been presented to you this evening and at previous meetings does comply with those criteria set forth in realm of provisions in the Town's subdivision regulations, a copy of that Section of Code was provided with Mr. Hannon's analysis.

Mr. Kobiolka: How does any additional requirement from the preliminary approval differ from what the Board could request as a final approval; are all those approvals contained in a preliminary application...as the final application the additional things requiring zoning gearinng toward the Town Board...

Mr. Hopkins: One of the key differences between preliminary and final plat is there are some different criteria in the Code; we would have absolutely no objection to this Board imposing a condition requiring us to satisfy of a comment letter that was previously issued Mr. Hannon. Secondly, there is one big difference between preliminary and final plat approval: once a preliminary plat is approved this plan in addition to satisfying the comments that have been provided by Mr. Hannon we also have to go and obtain all the other required approvals – water, subdivision, sanitary sewer – we cannot do that in the absence of preliminary plat, that’s how it works. We have to SWPP approval from the DEC so there is still a lot of work we have to do, we can’t do that until we have prliminary plat approval. An once we have all those, and again we’ve addressed Mr. Hannon’s concerns we don’t back here for Final Plat Approval. When we come back for Fianl Plat approval our goal that is the last step, you have copies of all those approvals and once that’s happened we can go to Erie County Clerk’s office and record a subdivision map which is a final step before Mr. Darling would have the ability to sell any of these lots or putting in the required infrastructure.

Mr. Kobiolka: The substantial difference between prliminary and final plat approval in that the design and requirements under our Code be contained in the preliminary plat approval and the only thing that this Board would be reviewing at the final plat approval is that all the necessary permits were obtained from the County and the State and the DOT as well.

Mr. Hopkins: Right.

Mr. Kobiolka: So the Town’s involved in the terms of design or requirements under our Code will be complete upon the approval of preliminary application, do I understand?

Mr. Hopkins: With the exception that we do have to address Mr. Hannon’s concerns, those need to be addressed at the Town level.

Mr. Kobiolka: So any preliminary plat approval would be conditioned on meeting the requirement of the Town Engineer?

Mr. Hopkins: And we would be fine with that, that’s an appropriate condition.

Mr. Martin: Do any other Board members have questions for the applicant? If not I would like to Jim Hannon to discuss and expound on what the applicant claims that you agree with him on. 6:27

Jim Hannon – Town Engineer

- With the Town of Boston since 2010
- This project has been around almost since then
- Before that a subdivision that was created I believe in the ‘60’s
- Dana bought/inherited the vacated property, created the patio homes next door
- This is pretty close to the original and I think that was the intent
- So preliminary plat approval is the basic division of land
- I’ve had significant comments that I gave to Joe to address; engineering comments that were more or less geared toward final construction documents
- That’s my goal to make sure the final construction documents are, that they’re going to get all of the systems in including water, sanitary, storm water, I’ve reviewed a storm water prevention plan for this
- These are all still in their preliminary phase
- Essentially it would be burdensome to the applicant to request final plans of them that address all my comments until we at least approve the preliminary plat – the simple division of land
- In my analysis I’ve gone through the drawings that I was given by Joe and they’re more than a preliminary plat
- In my opinion they meet the minimum code requirements set forth in Chaprter 104, Article 5 for Preliminary Plat

If anyone has any questions about my opinion about that I’d be happy to address them otherwise I’m basically recommending that the Board approve the preliminary plat; we’ll get to fine detail on this; there needs to be a couple of conditions on it whereby they comply with my analysis, I’m good with that. I think we have a fairly comprehensive review and it’s all set forth in my letter of June 6<sup>th</sup>. 9:21

17:43

Mr. Bowen: In respect to every member of the Planning Board have you had a chance to read the subdivision review documents specified by New York State; it's a 75 page document and it's produced by James A Kuhn, Local Government Technical Services and it specifies the responsibility of everyone in this room this evening., has anyone had the opportunity to read that?

Mr. Hopkins: I want to note that is not Town Law that is someone's summary of all the commissions of Town Law.

Mr. Bowen: It's a New York State document sir. It's a document by the division of land and government services. Has anyone had the opportunity to read that?

Mr. Hopkins: Right not the state legislature.

Mr. Bowen: Our responsibilities are also spelled out in Chapter 104 of the Town Code, has anyone read that? That's our responsibilities. 18:52

20:50

Mr. Bowen: My motion would be to motion the 15 points and to those points I would like to add 5 more points with references:

- I make the motion as I did last time
- I do have a written copy here and have added sections of the law that pertain to each particular points
- Let me comment on the 15 points before going on to the 5 additional points
  - The Town of Boston Code 104-11 E does state that we have deed restrictions – Mr. Bowen read from the Code Book
  - Point #10 in last sessions motion – the right-of-way I also...

Mr. Martin: Are you making a motion or making comments?

Mr. Bowen: I'm making a motion and commenting on the motion.

Mr. Martin: You could expedite it by simply making a motion.

Mr. Bowen: Out of respect for Mr. Chairman I will do that so accept the motion made last meeting, the first 15 points and I will add 5 points

- Point 16 – The State Subdivision enabling statutes provide that if a planning board find that the proposed subdivision presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes but also find that a park of adequate size cannot be properly located in the subdivision the planning board is empowered to require the developer to remit a sum of money to pay for off-plat parkland
  - I motion that the developer, the applicant remit \$100,000 with final plat approval

Mr. Hopkins: We'd give you the conservation as a park if you'd like it. We haven't seen these conditions so I feel obligated to express concerns over...

- Point 17 4-foot bicycle lanes – facilities for bicycle travel to include a 4-foot bicycle lanes on streets. All roads, gutters, fire support, water, sewers, etc. must be fully installed as a condition of the issue of the 1<sup>st</sup> building permit for any of the 34 lots.
  - Again I put this in the form of a motion – the approved preliminary plat and any development forms required therewith shall be signed by the Planning Board
- 19 – All roads, gutters, fire support, water, sewers, bicycle lanes, etc. must be fully installed as a condition of and before the issue of the 1<sup>st</sup> building permit for any of the 34 lots
- And my motion for point 20 – relates to Town Code A127-8 – drainage shall be collected for a maximum distance of 500 feet...Drainage at this limit shall then be transferred to a drainage system off the road right-of-way; collected into a storm sewer or concrete pipe...Provisions shall be made to have all...storm sewers drain to a natural drainage area.

Mr. Bowen: That's my motion of 20 points Mr. Chairman.

Mr. Martin: Okay. Are there any seconds?

Mr. Martin: Second time is there a second?

Mr. Martin: I'll ask a third time, any seconds?

Mr. Martin: Hearing none the motion fails. Would anyone else like to make a motion

26:31

Mr. Stringfellow: Mr. Chairman I will make a motion that we approve the preliminary plan. 29:06

Mrs. Rood: With the conditions we discussed.

Mr. Martin: Which is the Bond, the Conservation area and the easement?

Mrs. Rood: Yes.

Dr. Ziarnowski: And follow Jim’s (Town Engineer Hannon) contingencies.

Mr. Martin: Dave will you restate your motion?

Mr. Stringfellow: I will move that we approve the Preliminary Plat with the following conditions: **29:28**

- Conditions referenced in Mr. Hannon’s letters of January 4, 2017 and June 6, 2017
- A Bond for public improvements to be determined as part of Final Plat approval
- Conservation Easement
- The provision for possible future Conservation Easement to the Town.

Mr. Martin: Do I have a second?

Mrs. Rood: I’ll second that.

Mr. Martin: We have a motion and a second, are there any questions on the motion?

Mr. Bowen: I do Mr. Chairman. So we are going to vote on a motion those voting have not made themselves aware of Chapter 104 that deals with subdivisions of the Town Law. They haven’t made themselves aware of the subdivision requirements by New York State...

Mr. Martin: Do you have a question?

Mr. Bowen: I do. And thirdly Mr. Hopkins e-mailed on May the 14<sup>th</sup> at 2:11 asking anyone of the Borad members and I will read ‘Thanks and feel free to contact me at 510-4338 or via e-mail.’ Have any of the Board members contacted Mr. Hopkins?

Dr. Ziarnowski: David, I think this is inappropriate. I don’t think we need to be put on the spot or chastized by you,

Mr. Hopkins: What is the suggestion? I’ve not talked to anyone on this Planning Board since I was here at the last meeting.

Mr. Bowen: Mr. Hopkins it’s your e-mail. I just read your e-mail.

Mr. Hopkins: Of course, if you have questions you can contact me; I don’t appreciate the implication.

Dr. Ziarnowski: In all respect David I think you’ve done a heck of a job researching things okay, but at some in time I think this has to come to a vote, and at some point in time I think the issue is if we don’t like what’s in the Town Code, if we don’t like all the sections in the Town Code, and as Mr. Hannon said they’ve gone above and beyond pieces of the Town Code, then maybe the issue isn’t with the Board not reading or doing their homework or the issue is not with the Preliminary Plat the issue is that things might need to be changed and you can address it to the Town Board, but not chastizing the Planning Board for not reading something that you think it was appropriate that we should read.

Mr. Martin: Any other questions?

Mr. Martin: Any other questions?

Mr. Martin: Any other questions? Hearing none I would like a roll call vote on the motion on the floor.

Secretary Faulring: Repeated the motion (with help from others) if you are in favor of the motion please say ‘yes’:

Mr. Bowen	no
Mr. Liegl	no
Mrs. Rood	yes
Mrs. Schutt	I’m going to abstain
Mr. Stringfellow	yes
Mr. Ziarnowski	yes
Mr. Martin	yes

Four yeses, that’s a majority of the membership.

Mr. Hopkins: Thank you, have a great evening everyone. **36:00**

**TOWN BOARD LIAISON – COUNCILMAN BOARDWAY**

Not present.

Mr. Kobiolka reported:

- Town has declared itself Lead Agency for the mixed use project on 391 and 219
- The Town Board was looking for a report from the Planning Board and a motion was made by Paul (Ziarnowski) and he included as part of the motion the reasons for not voting in favor of the project and included the statements that were made by the County, the concerns so I feel that is sufficient, if not...

Mrs. desJardins: I talked with Attorney Corey Auerbach, who is the Attorney the Town hired to help with the SEQR process and he said that Paul's motion was adequate per report because it listed very specifically what the reasons were.

Mr. Kobiolka: Right, so the Town Board had to grant themselves as Lead Agency and the Town Board has set a Public Hearing for July 5, 2017.

PLANNING CONSULTANT DESJARDINS

Mrs. desJardins: Nothing further for this evening.

TOWN ATTORNEY KOBIOLKA

Mr. Kobiolka reported:

- Our Town Clerk Jennifer Mulé resigned June 5 and the Town Board appointed Dawn Boncal, the Supervisor's Assistant until the end of the year; there will be an election this fall for the remainder of Mrs. Mulé's term which I think is 2 years; so the office is open from 9 to 4, she does have some assistance, she's learning the job.

Mr. Martin: Is there anything else for this evening?

Dr. Ziarnowski: Glenn, is this your Deputy Code report? It's routine that we get these. It's good to see someone out getting this done.

Mr. Martin: Is there anything else?

Secretary Faulring: Previous years we went into a summer schedule and had only one meeting in July and August, now that we've gone to only one meeting a month...what?

Mr. Martin: We will keep the one meeting.

Mr. Martin: I need a motion to adjourn.

Dr. Ziarnowski: I will make that motion.

Mrs. Rood: I second that.

41:12

Respectfully submitted,

Thelma Faulring  
Secretary to the Boards and Committees