

MEMBERS PRESENT: PAUL ZIARNOWSKI
JIM LIEGL
TARA LOWRY
ELIZABETH SCHUTT
GARY STISSER
DAVID STRINGFELLOW
DAVID BOWEN
JAY JACKSON – Alternate

ALL OTHER IN ATTENDANCE:
TRACY HIRSCH
TIM KIRST
SARAH DESJARDINS
SEAN COSTELLO
JENNIFER LUCACHIK

The minutes from the last meeting which was August 11, 2020. The secretary could not find them on her computer. No one recalled getting the minutes from the last meeting. Pass on that and Jennifer will look into that.

There was only motion at that meeting and it was to approve the Schunk development.

Dave Stringfellow's re-appointment went through. Thank you everyone for following up promptly.

Tracy Hirsch request for rezoning a C1 property to R3 in order to put up patio homes. What we are here tonight is about rezoning. It is a conceptual site plan bare bones and not really going over the site plan. It will be relevant to our decision, recommend to the Town Board to rezone or not to rezone. Which will allow development.

Tracy Hirsch: Good Evening! They are patio homes, single story, all attached, everything is attached. Basically total coverage on the site 2.05 acres multiplied out 89,298 sq. ft. coverage on that property. What I am told and believe is accurate and hopefully roof coverage 15% or about 13,394 sq. ft. There are some units in the Town of Amherst, they are at Fox Creek and are all connected, single garage with each unit. Approximately 8 units all combined together, about 55 ft. by 215 ft. approximately, 11,825 sq. ft. out of 13,400. What my intention was to have those units, garage would be 25 x 60ft. That could fluctuate a little bit depending on the actual roof coverage. The garage would be used for a piece of equipment for plowing and the other garages would be for storage for somebody living there, if they have an extra car or guest. There would be a non covered dumpster that would sit in the north east corner of the property. Combined the coverage is about 13,325 sq. ft., that falls within the coverage of those units. I spoke to Tim Kirst that lives there and down the road he will be helping me with the construction which is much more appealing to the people who are in that neighborhood that Pearl and Morry built behind. Far more appealing to those neighbors, so that is one of the reasons that I went in the back, than me building something else of a commercial nature up. I do have an architect that my company works with on a regular basis, DeDonato. We could do a site plan, but at this point, I think because a little more older people would be in there, the drive way entering off Hickory Meadows would be more appealing than entering from Boston State Road and would leave a lot of green separating the east side as well and over the years. Since I have purchased this from Pearl Emerling for the most part has been brought up the grade. I am in pretty good shape right now grade, elevation. Would not be bringing in too much fill in there. This is pretty much my intention for the rezoning purpose. Does anyone have any questions?

Jim Liegl: I am concerned with the placement of the dumpster. Tracy, are the neighbors okay with this placement? Are any of the neighbors on the phone call here? Concerned about the open dumpster right in the back yard. The total coverage is pretty close to that 15%, so anything that comes in at 55ft. 6 in. x 215 ft. x 6 in. all of a sudden throws it over the 15%, especially when the terms approximately 215 ft. being used. So if it goes over 216 ft. it is over the 15%. Those are a couple of things I see wrong with this.

Tracy Hirsch: The primary goal was the measurements, I have given you is actual set of 8 units at Fox Creek. Those are the measurements, that is 8 units that are actually already constructed. So those are the measurements that I took when I said approximately my variation wouldn't be 55 x 215 or 55.6 or x 216, what would fluctuate would be the garage space, doesn't have to be 25 ft. x 60 ft. . It could be 25ft. x 50ft. So that would make up the difference to the 15 % coverage as far as the container it could go anywhere. I just put it back there in the corner because there is pine trees that are completely lined there, the input once we get to that type of details. The input from the neighbors could come into play, however the container is enclosed anyway, it won't be necessary for a roof on it but it could be wood fenced in, so could put trees around it, pine around it or go to a different spot. I just picked there because it is out of the way. It can be anywhere, it was kind of out of the way, that was just a suggestion.

Paul Ziarnowski: Sean and Sarah I will need help on this one. We could not find patio homes in our code. I think the code was written before patio homes came into being. But what they do have is town houses as attached units, probably talking about the same thing, but some schematics. If you look at the special consideration in the code for the town houses the max. length is 160 ft. So that might be a new point, we're not bickering over 15%, if the limitation is 160 ft. you're going to have to change in order to make code acceptable.

Sarah Desjardins: If you read the definition of townhouse it could fall in that definition although I think when you were dealing with Dana Darling across from the self storage on Boston State Road, I think you would consider them multi family dwellings as opposed to townhouses.

Paul Ziarnowski: I'll have to go back to those minutes to recall.

Sarah Desjardins: I think most towns define patio homes as single family detached homes. Builders like to call them patios homes but that is fine. We don't have a specific definition of the code of that. The big thing that Sean Costello would call them Town Houses or Multi Family Apartment Complex like you would an apartment complex. Except they are owner occupied.

Paul Ziarnowski: Are these owner occupied?

Tracy Hirsch: Yes they would be.

Sarah Desjardins: I don't know if that makes any difference.

Tracy Hirsch: I can get a hold of and take some measurements of Dana's before we determine what we are going to call them, to determine the size. He basically has an office next to mine on Boston State. I can always check with him. I don't know whether the one you are speaking of Dana's are 160 ft., they might be, but it would seem to me longer than that.

Jay Jackson: Then we missed it. Maybe two wrongs don't make it right, here and get down to the bottom of it.

Sean Costello: My comment is that this is not an application for site plan approval at this juncture. We understand conceptually what the idea is, what word we used to describe the structures might not matter. What the Town Board is looking from the Planning Board in its report back is the Planning Board's recommendation to the proposed rezoning is in the best interest for the community. Is it consistent with our Comprehensive Plan even though it hasn't been updated in quite some time. It is consistence with the Town's sort of spirit and

intent of that development reflective of that plan. It will promote the general welfare of the community are the proposed uses compatible with the other uses in the area. Is it going to throw other things out of wack, neighborhood out of balance? Adequate utilities? Don't know if that is a big issue. But those are the fractures considered at this stage. Is it worth rezoning from the current designation to the proposed designation to put in this type of project. Exact details of this project in terms of what is actually built will be hammered out at the next time it reaches the Planning Board. But the first step here is the legislative act of the Town Board. A change of Zoning is a legislative act, not like some of the other things that the Town Board has to do, or can do or approval of special permit or granting final site plan approval. You can always file Article 78 and compel it. You can never compel a legislative act. The Town Board can't be forced to rezone this, but looking for the Planning Board recommendation as to whether or not to rezone to permit the project to go forward. I don't have it handy, the new Zoning Map that was prepared by LaBella, but we should be considering the zoning of the properties around it, the types of property around the parcel. Talking about what is proposed is absolutely relevant and another thing this Planning Board can do, when it makes the recommendation to the Town Board it can say "we think that there should be this condition on the rezoning, that there never be x,y,z or structure be limiting this". As you recall there was some talk doing that the last time rezoning was before this board. Board recommended certain conditions that certain uses not be allowed on the rezoned parcel, on Emerling.

Dave Bowen: So my understanding is to go from commercial to residential, is that correct? No further comment.

Tara Lowry: Microphone off. (texted on zoom, No Questions)

Elizabeth Schutt: Are the surrounding properties residential?

Sarah Desjardins: The properties behind are residential. Property across the street is not, the property across the street next to post office is not and on the north side not. As you start to go north it becomes commercial eventually.

Elizabeth Schutt: Thank you! I have no questions.

Gary Stisser: Question was where is the driveway going to be placed, and it was answered. I have no further questions.

Jay Jackson: I observe that our code requires us to have one garage for each unit. Was the proposed garage, some of it was storage. Okay 6-8 units there need to be 6-8 garage units as well. Is that part of the original layout?

Tracy Hirsch: Yes it is. There is a garage with each unit. So 8 units and 8 garages. A couple extra garages for plow and mower.

Jay Jackson: Off line discussion, that is the notion of spot zoning. In the middle of zones we're going to have an exception and wondered if that makes any difference to the Town.

Sarah Desjardins: There is residential butting the property to the east.

David Stringfellow: It appears that you have seen more detail drawings than I have in my possession. I understand and agree what Paul has said several times that we do not have much commercial zoning left. (1) This loses one more piece and (2) Generally residential property add more cost to the towns cost of operation than brings in tax revenue. However that is not true for senior citizens facility, they don't have children in the school or rec programs. I guess at this point I have no real objection to the concept.

Paul Ziarnowski: Was it zoned commercial when you bought it?

Tracy Hirsch: Yes, I believe it was commercial. I have not changed the zoning.

Paul Ziarnowski: Okay the zoning was not changed for you. If you all remember for 5 years we fought with Emerling, or worked with Emerling. (1) To say that we were not in the position to take commercial property off the rolls, that was our monitor for 5 years regarding their development in North Boston, they wanted to take commercial property off the rolls and build multi family units. If I were representative of Emerlings, I would be screaming bloody murder to say when a year later we turn around and say "Hey is a commercial property and we're going to take it off the rolls" for this individual. But we weren't going to do it for you. So I have a little issue with that. The next thing is at one point in time there must have been a Master zoning layout for the reasons whatever there were for the committee that made that zone. (2) For us at a point in time to try and get in their heads and say "why did they zone it commercial" and now we are being asked because it isn't working the way it should for the developer who bought it 2007 and not we need to change it, so that the project can go on! (3) Mr. Stringfellow was dead on the cost of community services. Well this is senior housing, how do you permit. How do you negate someone with children not to go in there. Someone with children want to buy it, why can't they buy it. So put the name or tag on to say it is senior housing it totally irrelevant. Okay basically what it is a lower tax entity with multi family dwellings that the Town is going to pick up the pieces. So from a development stand point, "if I was a developer this is great!". But I'm looking at it from the town and looking at the revenues for the town and cost community services. I think I sent all of you a review that was done of multiple cities done across the county. There wasn't one that a residential had a positive return. Basically in my mind this is a subsidy of all of the residents of the town to make this project work. Okay, then town financially would be probably be better to leave as a vacant property. They're not spending anything on and getting tax revenue. In my mind, I don't know if I can sit here in good faith and say "Yeah! Let's change this piece of property. We got our self in trouble years ago with spot rezoning of a piece of property for the Wurtz Funeral Home. We are dealing with that today. So, I am not sure in my mind this is a good request. Last thing: Jennifer, I think you can back me up on this or rescind me on this. We just had LaBella go through at least demarked, out of the old zoning map. So it was readable at this point of time. I believe at some point of time, the Town is looking at cleaning up the entire town and reexamining the zoning issues. So I would say hold your horses guys and let the town make that decision. Let the Town clean it up and if you don't like how the Town is cleaning up and if you don't like the way the Town is cleaning it up at that point in time, come to the meeting for code revision and say "I requested this piece of property is changed". But in my mind, I can sit here and say "hey it's a great idea, because it sets a dangerous precedent" and if I were Emerling I would be screaming at the Town. I'm not a fan necessarily of the process but I'm also not in the position to say this is a great idea. This is my say on it.

Tracy Hirsch: Do you mind if I have a couple of questions? Revenue - you brought up several points. Don't know if there are any children living in Dana's property. There are certain stipulations that are put on the residents that are leasing that property and know it's not what it is leased as. I don't believe this has taken place.

Jay Jackson: There are children living in Dana's development.

Tracy Hirsch: What expenses would the town pick up for the actual property?

Paul Ziarnowski I will have Sarah send you a link you a study that was done and the cost of community services. I would love to see every project go through cost of community services analysis. It is very extensive, very technical and most municipalities don't have the means to figure that out. I bet you, you have done your homework Tracy, I mean you know the square footage, you probably know the dollar amounts of your penny to the expenditure, and the cost of your return.

Tracy Hirsch: To answer the question, "I do not! This was preliminary" I thought it would be good for the neighborhood. I can tell you right now that there is no way in the world that if I put something commercial there small enough that it will bring in anywhere the revenue. As a commercial contractor 42 years, there is no possible way that I can put something commercially that will bring the revenue of 8 units.

Paul Ziarnowski: You can look at solely though the intake, tax revenue, have to look at the net revenue that the town would appreciate. Case in point, when we were going through the Emerling project, Mr. Kobialka at the time looked at the Boston Apartments. There are 32 units in there, the average assessment school tax paid was \$800.00 per unit. I know where I live and Tim lives and where everyone else lives in the community. I'm not paying \$800.00 in my school taxes. Just hasn't happened. So I'm not sure how you can say that, it is nowhere near assessed as individual houses.

Tracy Hirsch: It may not be assessed as individual houses but it is still just that aspect. I can't put up a small commercial business there and have it bring the revenue that 8 units would bring. I suppose I would have to look into it that in order not to speculate on it. But give some actual statistics on it, so no I have not determined how much it was going to cost, what the revenue out would be. Personally I thought it was a good project. I mean leave it as is, but no, I can tell you right now. I will not leave it as vacant land.

Paul Ziarnowski: I think it is a good project. I'm not so sure rezoning is a good idea? I mean if you owned land that was R3 and master zoning called R3 - good for you - and would think this is great. But for us to say that taking a commercial property off the rolls and going to put into residential that is my concern. I think your project has merit. Attorney Costello said "right now we are not looking at the project per say we are looking the rezoning at the well being of the community to rezone" that property set a precedence, every time somebody wanted to do something different on a piece of property that isn't rezoned right. Because they bought it that way.

Tracy Hirsch: What I'm trying to do is make use of the property. It's of no use right now. It's a vacant piece of property with no use and really minor revenue. It's just vacant land. I have other land and I could put this on Omphalius Road or Cole Road if I wanted to. It is all residential up there. I believe it is R3.

Paul Ziarnowski: Is your other property R3? The only thing that could fly is in this foot print your discussing is R3. You can't put it in R1 or R2.

Tracy Hirsch: No I realize that. That I understand. All I was saying, thought that would be something conducive to the neighborhood. I looked at it more from the residents there 24/7 than I am from the commercial property who are there from 9 to 5. For somebody who is living on Boston State Road is a mix of residential and commercial property. As you go down you have a mix of both. There is no strictly residential or strictly commercial and so that was the reason I thought that would be most conducive and best for the neighbors. That is why it was chosen. It wasn't looked into at this point for another purpose, not saying if I can't I won't look into another purpose because right now it's serving no purpose to anybody right now.

Paul Ziarnowski: I understand and think its commendable you to bring up this project and it has merit. I'm not bringing up the merit of this project. I am arguing the rezoning that I don't think we should take it lightly. I think that it is something for the Town Board, we are advisory and I am one voice of seven. We are going to take a vote, do a motion. In the past we have voted against Dana Darling's rezoning and the Town overrode us and "said we are going to rezone the property". So we had a multitude of concerns in the Dana Darling's property of rezoning. I think if the Town Board wants to go along with what has been said tonight in a motion or if the Town Board wants to override what is being said in the motion. I don't have a problem with that, but I'm bringing up issues that we have dealt in the past. Issues that we have dealt with in spot rezoning, that came back to bite us. Also a lot of different things, so it's not the project it's the piece of property that needs to be rezoned to put the project on.

Tracy Hirsch: I respect that, can you give me an idea what you would like to see there commercially?

Paul Ziarnowski: That is not our job to do that, we are not in that position to recommend property development. We are here to look at design to concepts.

Tracy Hirsch: Okay! Very good! Do you have any other questions for me?

Paul Ziarnowski: I don't. Does anyone else have any questions or criticisms?

Tim Kirst: Hello

Paul Ziarnowski: Tim, normally Tim in a Planning Board meeting visitors can't speak. It is not a public hearing.

Tim Kirst: Okay hold my peace until there is a public hearing.

Paul Ziarnowski: Do we have a motion? And vote on this. Jennifer I would like a roll call vote, I would like to go last. Reason being is I don't want someone to look at me and say "what's the vote". So do a roll motion. As a council person called me out had you voted for that "you pushed a project through". I am one of seven. If the project doesn't go through, I'm not the only person on it and just because I'm the chair. I don't want to get finger pointed at to say you were the guy to push it through or negated it.

Paul Ziarnowski: I made a motion to refer to the Town Board a rezoning of this property.

Gary Stisser: Seconded the motion.

Paul Ziarnowski: Is there any discussion? No discussion. Jennifer can you call roll.

Jennifer Lucachik:

David Bowen – No	Tara Lowry - No
Elizabeth Schutt – No	David Stringfellow - No
Gary Stisser – No	Jim Liegl -No
Jay Jackson – No	Paul Ziarnowski – No

Paul Ziarnowski: Mr. Hirsch, I am going to send this up to the Town Board and take a close look at this. They may totally over ride us, if they do good for you. If not back to the drawing board. But I would hope (1) Town get their act together and look at the total zoning situation in town. (2) Love to have them require a Cost of Community Services on every project, laid on the expense of the developer not from the Town. It has be an independent auditor to take a look at the cost of community service for each project. Because we are taking a lickin' on tax revenues and they have no idea what they are buying into until after the project is done. If it is such a great deal every time a new house is built how come you taxes have never come down? Hey you are increasing the tax base, yes you are increasing the tax base. Increasing expenses to maintaining that development. Jennifer can you take these items back to the Town Board.

Paul Ziarnowski: Mr. Hirsch, thank you for coming in. Hope it works out for you one way or another.

Tracy Hirsch: Thank you. Everyone.

Paul Ziarnowski: New business – Jennifer I haven't received anything new from Mr. Ferguson. Dawn is no longer with us. She has been relieved of her duties. No offense Jennifer, it has created a little bit of a show for us getting our act together. Jennifer has graciously stepped up to run. We appreciate this very much, but think it is unfair that she has to do it. But she is not complaining, I am not complaining. As long as we get our information in a timely fashion of correspondences, in a timely fashion, I don't care.

Jennifer Lucachik: The budget review in November, the Town Board restructured our town departments with the restructuring was to eliminate the secretary to the boards. The Town Clerk was able to add part time clerk to office of the Town Clerk. With the stipulation allow the part-time new clerk to be able to assist with the boards. Whatever is necessary to do that. Right now the Town Clerks Office is providing the minutes for the

Planning Boards & Zoning Boards. I have asked to kind of vet the process, there were some breaks in it. We had some missed calls, with the meetings, wrong meeting numbers, the floor wasn't working. I want to hand it over to the clerk's office for when they are ready to take it over. Tax season over in let say April. It is my goal for them to take it over.

Add a part time Code Enforcer to the Code Enforcement Department. Those are the two changes made to the Town Hall. We felt necessary those were necessary, unfortunately the way it went through there was no transition between the secretary of the boards, and the Town Clerks Office. The timing was very poor and we should have acted as of March. The restructuring would occur. They have since hired a part time clerk, in the clerk office and posted the part time Code Enforcer's job. We are moving quickly on those.

I have looked up cost of community services template, information but mostly related to farm land. But it is a good exercise. For the Town Board for those who are involved with the zoning. Especially in the zoning and planning, so what we understand what we are looking at when we are looking at projects. For the Town Board to access and appreciate what was coming in to the Town. How it relates to services.

Paul Ziarnowski: I sent you copy of the study it was done in the 1990's, unfortunately not much newer out there. Every single analysis from every single town had residential had a loss and commercial had a gain. Vacant property had a higher gain, because there was no Community Services Cost. So you have weight the assessment of the property against the Cost of the Community Service to see if you are going to gain. Residential over a certain threshold actually gains but it's not the \$150,000 house, it is the \$500,000 house. I'm not in that position to do the evaluation. I don't think the developer can, but there are people who can do. Go on-line you look at the formula, you need to be a CPA or someone who is an accounting individual to do it all. But I think it is ridiculous for a former business not to know what I am buying, in the time of buying things that they have no idea what it costs. It is ludicrous to me. I would push and talk to Jason. Look there has to be an easier way, put it on the developer cost. The Town shouldn't have to pay the bill. The developer pays the plans and project and the cost of the Community Services Analysis. This would be my recommendation.

Jay Jackson: Although the study maybe 30 years old, I looked at it and the differences will be percentages. I looked at it and the commercial piece of property is 1.15 a year for residential and commercial will be .40. Between then and now those numbers have gone up but what you provided is useful information. Granted it is dated, as long as you keep those percentages in mind. To me it seems valid.

Sarah Desjardins: Paul I forwarded your study to Tracy Hirsch.

Paul Ziarnowski: Thank you very much. He did a good job with his numbers. He was good with his square footage although he never looked at the codes. I'm still at a little bit of concern with what Amherst let him do and what we allowed to do. In don't know when we did Dana's Darling's? David do you remember what that was called.

David Stringfellow: No. I don't remember. The Cost of Services study that you are referring to occurred to are in the day before the amount of senior housing projects that we have in the country now. I suspect that while occasionally senior housing units will have a beginning family. In most cases are not big enough for a young family. I would like to see a study that compares that kind of unit for those Cost of Services.

Paul Ziarnowski: I hear your point, that is a good point to be made that's why I said if they could do an analysis. It wouldn't be a difficult thing. If somebody wanted take the wherewithal to look at it. There are people who do it all the time. What is the Tax return on this piece of property? What is going to be our service to the property? Can you limit, the age of people in a development? These are going to be owned, correct. Private own.

Sean Costello: I don't know how one goes about doing that, but there are certainly communities that are deed

restricted for persons over a specific age.

Gary Stisser: Didn't he say at the very end, also state that they were going to be leased, the property?

Paul Ziarnowski: The one in Amherst is going to be leased. I didn't get that, I know that the one in Amherst is leased. They were going to be owned.

David Stringfellow: If I can interject. He did say they are going to be owned, later in the conversation he did say leased.

Paul Ziarnowski: Yeah, I'm not sure what's going on. I hate shutting off Tim Kirst, but if we start, we will never get out of these meeting. Protocol has been at all of our meeting that is not an open meeting. Old Business-- Dollar General, Sean have we heard anything from Dollar General?

Sean Costello: I haven't heard anything from Dollar General. I don't know if Sarah heard anything. But at this point I think we have passed for sure with the extremely long stay at a period of time to challenge the Town Board's decision. So I think we are done with it now. But I don't want to give the sense or impression to that it is impossible for them to ever pop up again.

Jay Jackson: Has heard in rumor mills that Dollar General is going into Hamburg and Springville. Preferably that they have given up in Boston.

Sean Costello: They are building in Colden and Wales.

Sarah Desjardins: They have one purposed in Lakeview which is southern Hamburg. Which is very controversial, worse than putting in Boston. The Planning Board issued a positive declaration environmental statement and that set them back. They typically don't have to do that study. They are picking another spot on Southwestern which makes perfect sense. They haven't withdrawn the first one yet in Lakeview.

Paul Ziarnowski: Sean, Anything else for us?

Sean Costello: Nothing.

Paul Ziarnowski: Sarah, anything else?

Sarah Desjardins: Nothing.

Jennifer Lucachik: Nothing, No sir.

David Stringfellow: Motion to adjourn the meeting.

Paul Ziarnowski: Seconded the motion.

All were in favor.

The meeting was adjourned.

Respectfully Submitted

Margaret Derk