

Planning Board Minutes: October 22, 2013

Attending: Bernie Cahill (BC), Chair; Gregory Tuzzolo (GT); and Kevin Calzia (KC). Absent: Max Lamson (ML), Vice Chair; Chuck Shea (CS); and Jason Kreil (JK), Alternate. Also attending representing the Town of Maynard, Eric R. Smith, AICP, Town Planner.

At 7:05 P.M. BC called the meeting to order.

7:30p.m. Public Hearing, Fowler Street Extension Definitive Plan

BC re-opened the Public Hearing indicating this was a continuation of the Fowler Street Extension Definitive Plan that was held on Tuesday, September 24, 2013.

Mark Donohoe (MD), Acton Surveying and Engineering: Is there a quorum of Board members? BC noted there were only 3 members in attendance this evening. Town Planner notes a Definitive Plan requires a majority vote of the Planning Board. The Board, Town Planner and Applicants discussed proceeding by use of the Mullin Rule. The Applicant agrees to proceed accordingly.

MD: We have essentially re-worked the subdivision. We propose a road that can be accepted by the Town to the end instead of a Private Way. I met with the Zoning Enforcement Officer. Originally we had a squared end. Although it is difficult to understand, but by having a circular end we meet the zoning bylaw, as it says it has to be linear or curvilinear. By doing this it gives us room for 3 large lots and snow storage at the end. It also precludes anybody building (pointing to the Plan) in this section here. There is not enough room between the right-of-way and the slope.

MD: We still have the T-Turnaround desired by the Fire Department. This will be our easement (pointing to the Plan) so that we have more buildable space for this Lot.

MD: We have since prepared a Stormwater Report, which I emailed to Eric and to the Board's Consultant.

MD: The length of the Fowler Street to the end of the Cul-De-Sac is 553 feet, 53 feet over your limit allowed by the Subdivision (Rules and Regulations), but the Board can waive that. To the end to the proposed pavement is 528 feet.

MD: We have offset the pavement in this direction (pointing to the Plan) to give a little more room for the T and also some snow storage. They will get good solar gain cause the snow storage is on the north side of the road.

MD: The stormwater system has also been reworked. There was a suggestion for some sort of porous pavement. What we will do is take all the impervious surfaces, pass them through a tree box filter which will remove 80% of the suspended solids and then we will recharge it. Recharge for 100-year, 24-hour event. We will also provide for on-lot recharge.

MD: We have presented Eric with a request for extension to December 10th. That way Wayne can review it. I realize this is a lot of information. There are eight sheets in the subdivision (plans)

now. We did include a House Location Plan, which shows we have viable building areas. These will be by zoning Single-Family Homes. The size of the building in this lot (pointing to the Plan) is very constrained and will be a single-family home. The building is 35'*30', or about 900 square feet. Divide that by half and it would be 450 square feet per duplex. I don't think that is saleable.

MD: We are going to repave the existing Fowler Street back to the other side of the Sullivan property. The rest of the pavement will be hammer milled. The Board and MD discussed repaving construction practices.

BC: Can you show us where the berms are in this design? MD: All we are proposing is a vertical curve here (pointing to the Plan) which was recommended by Wayne. We want the water to flow onto the grass, much like it does all along Fowler Street. MD reviewed location of vertical curves and noted otherwise it would be like a country road. MD: Which is what the Stormwater Management Handbook recommends, especially for a road of this sort. That way we can maximize amount of infiltration without going through Stormwater drainage system. MD further described the proposed Stormwater management system.

BC: The cul-de-sac, the line for it where the three trees are, is there anything physical to show it exists? It is not actually a turnaround, right? MD: It is just a right-of-way line. There will be concrete bounds here, here, and here (pointing to plan). We could add a fence or pressure treated post if you want. BC: No. I was just curious.

BC asked MD to show where the utilities are proposed to cut across to the cemetery.

MD: What we did because we have these strange little lot lines to get to 10,000 square feet. We did that so we could get the road as far away from the ice contact slope as possible. We decided to put a five-foot easement all along the cemetery so if they ever had to replace the fence they could go on this property and temporary trespass with the right to go over there and repair the fence. It will also give a buffer if someone wants to attach something to the fence, they can't. It's maintenance preservation. We do have a utility easement along this property line (pointing to the Plan) and the five-foot easement is also a utility easement.

BC: I presume that the Conservation Commission has to weigh in on the new Stormwater management system. MD: The Maynard Stormwater Bylaw requires us to file with the Conservation Commission, even if there are no wetlands involved. There are wetlands. So we have to file with the Commission and they will weigh in on the new stormwater management system and calculations.

ES: Mark has submitted these revised plans. When he submitted the original plans, he went through the Definitive Subdivision filing process, which required him to go to the other departments for their review. I just told him to give them all to me and I will distribute them out. There is nothing about resubmittal for new plans. They will go out to the other Town Departments tomorrow.

GT: So the end of the cemetery, the chain-link fence belongs to the cemetery. MD: Yes it does. GT: If these homeowners were to build a fence it would be on the easement line. MD: It would have to

be outside the easement. There would be a five-foot no build area. That way no one would store anything there.

MD: We were out there and we did four test holes. It was early in the morning. Looking across the cemetery it was really beautiful. The best neighbors in the world.

GT: Can you describe again why do we need the vertical curves? MD: Wayne recommends them. I prefer sloped granite. He hasn't seen sloped granite installed correctly. I have. What I do is set concrete on both sides, so that it is fairly rigid. I think it should be granite because people do not make corners very well always, especially people my age. We would add the sloped granite detail. The Town can decide.

GT: I could see either way. I was just wondering why we need curbs at all. It is a lightly traffic road. MD: I won't argue.

ES: Mr. Chairman, we do have Connor Nagle from VHB here, representing Wayne as Wayne is not here. In case the Board would like to get more input from Connor.

GT: I understand it is a fire truck turning and there is one house serviced by that T. It seems a little out of context. Especially if we are shooting water to the north, we have an obstruction there now.

MD: It will be cross-sloped so it will go around the curb into the tree box filter.

The Board asked for Connor's input. Connor Nagle (CN): We have just received the plans so we haven't done a full review. I think curbs there will protect the edge of the pavement. It will be a lot more than a fire truck using it occasionally. I haven't had a chance to look at the Stormwater report, but the Report seems to be all there.

CN: I wonder, are tree box filters a little maintenance intensive or something that will be the Town's property?

GT: I am just thinking if there were no curbs, would that allow water to free flow without being channelized and then we would be able to just treat the water in a swale versus a tree box filter?

MD: We have to recharge at this site otherwise a large storm might flow down the banks and might cause erosion. MD gave an example in Concord at the Village Subaru with erosion damage of 20 feet deep and 30 feet wide. MD: So I don't want any water to go down the slope, it is the same material here. That is why we are recharging the 100-year storm.

GT: So this easement is pitched to the south? MD: The road is pitched to the south. Along with 100 feet of the existing Fowler Street, we are picking that drainage up too. The Tree Box Filter is the most compact device that is non-proprietary that we can use to get 80% removal of suspended solids. It is fairly maintenance free. You just really have to remove the material on top when it builds up.

MD: On this road cause it is so flat, chances are they will not be sanding it that much.

GT: What is the pitch? MD: (pointing to the Plan) We go 0.9% in this direction. Your regulations allow 0.75%. Then we go 2.9% in this direction. MD: It is fairly flat and will not cause gutter erosion. GT: I do see how the curb will help you then.

GT: So then the gravel trench is on the south side of the road? MD: That is actually subsurface, around 3-4' below the surface of the road. We depicted it that way so you know the width of it.

GT: It just infiltrates. MD: Yes. This is medium-course sand. There is a Rawls number, which 8.27 inches for this material. I use 0.4 feet – so 4.8 inches.

GT: So you call out here for one tree to be saved. MD: We have not located all the trees out there. We will do that. Most of the trees will be removed. There is one large beech here (pointing to plans) that should be preserved it is right on the property line (of Lot 1 and 2). The other trees are very close to the outbuildings and they are going to be removed once they start demolishing those buildings. We will locate those trees that should be preserved.

GT: Is there a Homeowner's Association here? MD: No. GT: That's right it will be a Town Road. MD: Hopefully.

GT: So once the subdivision is built and the property is sold there is no guarantee about what trees are kept. MD: That is correct. GT: It is about a suggestion to future homeowners about what could stay and what might not need to come down.

Unidentified person from audience: Don't they have to leave what is on the hillside alone, on the slope? MD: That is all in the jurisdiction of the Conservation Commission.

GT discussed where the jurisdiction of the Conservation Commission lies for review of this subdivision with MD.

GT: There is a stronger potential case to be made when there is a homeowners association or governing structure to a place like this. I guess, the Board can control what goes on in the easement and the road going in there. I would like to see if there any sizable trees that could survive this.

Rosemary Lent, 10 Fowler Street: Can I make a comment about some of the trees out back? When my husband passed away four years ago I had to remove 4 trees between my house and half way up there (pointing to plans). I think a lot of those are dead and will have to be looked at very carefully.

MD: We will locate trees for preservation.

KC: I am still a little confused, the shaded gray is the proposed road and there would be granite curbs going into the T-Turnaround. MD: Correct. KC: As that road extends to Lots 2 and 3 and you show where some possible trees might be planted, what's going to be there to separate the road, from is that a landscaped area, grass? MD: It will be grass.

KC: What is the significance of that dark green in the Cul-De-Sac? MD: That will be the shape of the right-of-way. This will be Town property. KC: So that will be left for the Town to maintain those trees and landscaping. MD: Yes. I don't think Maynard cuts any grass along sides of the road. Usually the neighbors will take care of it.

KC: With the way current zoning is set up, Lots 2, 3 and 4 is all in S-1. Those can't be two-family dwellings. Is there intention to try to get a Special Permit or Waiver to make a duplex there? Or is that just out of the question? MD: It would have to be through the ZBA and they are going to say no. KC: So they intend to be single-family homes. MD: Yes. But then as you mentioned, Lot 1 could have a two-family dwelling, but it is just a small, limited space to build. It would be a small two-family dwelling. MD: If the Board wants it could stipulate that the road only handles four single-family dwellings. KC: That is something I would be in favor of too. I think the neighbors expressed that interest also.

BC: What are you looking for a written guarantee that is going to be single (family)? KC: Yes, that is my preference and what the neighbors have expressed it just be a single-family neighborhood and not have multi-family, sorry, duplex two-family housing in there. BC: I am not sure if you would even get the parking in. It would require 4 parking spaces.

GT: I understand the games you have to play with the lot lines in order to get the minimum lot size. Is there anything we can do on our end to codify these really awkward lot lines in perpetuity They are not adding any value to these lots.

ES: Some towns have what is called Lot Regularity Requirements. To my knowledge that is not in the Maynard Zoning Bylaw. You do have a Lot Width Requirement, but that is only addressing the front part of the lot. So there is nothing currently in play. MD: Some towns have a formula $16A / P$ Squared. Where A is the Area and P is the Perimeter.

GT: It just looks ridiculous. MD: I agree. GT: I understand what you're doing. The frontage on Lot 2 creates that panhandle. Is there anything that can be done there to clean that up and give it over to Lot 1? Or just keep it in the easement? We should keep these things as tight as we can.

MD: These two lots (Lots 1 and 2) are way oversized. This allows us to have the required frontage. We could possibly chop this lot and still need it up to this point right here (pointing to plans). I'd rather have a straight line than something with a jag. I think most neighbors recognize that. Hopefully they won't care and this person will maintain this strip. From here on back, it should not be maintained just left as is. We can look at.

GT: It just seems wrong to me that to commit these things forever, when clearly this is something we could look at in the future to help us make this process a little more intelligent.

GT: You mentioned there was discussion about alternative material in the easement.

MD: We had brought that up. It was a porous pavement or something that would not be bituminous concrete that sheds water. I thought about that. It is fairly maintenance intensive and

it is difficult to have someone come in and just do a very small portion. And because we are going to filter all our water and recharge it, it would be a better system. Porous pavement always seals up because it's sand and leaves get into the little pores of the pavement. So they have to pressure wash it, which I don't think Maynard has the ability to do. So we decided instead of this small portion being porous pavement, cause we are recharging everything, let it go through the filter and then let it recharge.

GT: My concern was that, but also just the perception of the easement versus the road. Meaning if it is not part of the regularly traveled lane of traffic it would seem inappropriate to pave it. But in this scheme here Lot 1 is using the easement to gain access to their driveway. So it doesn't make sense to go from asphalt to another material then back to asphalt. I think it is fine.

BC opened up the Hearing for Public Comment.

John Sullivan, 11 Fowler Street: Just a question. Whether this turns out to be the final plan or not, once a Plan is accepted, is it binding? Or once do they have their right to build and things change. MD: Things can change but we would have to come back to the Board and they have to have a Public Hearing.

ES noted he would do his Town Planner review on the revised Plans before the next meeting.

ES asked MD status of the sidewalk financial contribution in lieu of construction as that had been part of the discussions previously. MD: We would repave the entire road and hammer mill the first two hundred feet. I will put together a new list of Waivers.

Vic Tomyl: I wonder how many waivers they are asking for. MD: 7 or 8. I will get the Board a complete list. VT: Is that within the realm of what is normal type of setup for waivers? BC: I can't answer the normal question. I am going to wait to see what the 7 or 8 waiver are. It has changed a little bit since the very first meeting on this.

BC made a Motion to accept the extension to the decision deadline for the Fowler Street Extension Definitive Plan until December 10, 2013. Seconded by KC. Vote to accept the extension 3 to 0. ES indicated he would file this extension document with the Town Clerk's Office tomorrow.

BC made a Motion to continue the Public Hearing to Tuesday, November 12th @ 7:05p.m. Seconded by GT. Vote to approve 3 to 0.

7:30 Public Hearing: Proposed Changes to the Maynard Protective Zoning Bylaws related to changing the allowed use of Supermarket in the Business, Central Business, Industrial and Health Care/Industrial zoning districts.

BC opened up the Public Hearing by reading the Legal Notice into the record:

Pursuant to Massachusetts General Laws, Chapter 40A, the Maynard Planning Board will hold a public hearing on Tuesday, October 22, 2013 at 7:30 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 101 to discuss the following proposed changes to the Maynard Protective Zoning Bylaws:

Proposed Changes: Table of uses

To amend the Town's Zoning Bylaws as follows:

1. In the Section 3.1.2, Table A, Use Regulations, part 4, omit the use "Supermarket" and the designations which follow it.
2. In place thereof, Amend Table A – Use Regulations in Section 3.1.2 by adding the following
 - a. "Supermarket, up to 25,000 square feet Floor Area, Gross" in the Central Business District (CB), Business District (B), Industrial (I) District, and Health Care/Industrial District (HCI) would be an allowed or permitted use ("Y"); and
 - b. "Supermarket, greater than 25,000 square feet Floor Area, Gross and up to 65,000 square feet Floor Area, Gross" in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be allowed subject to Special Permit from the Planning Board ("PB") but in the Central Business District (CB) would be changed to a prohibited use ("N"); and
 - c. "Supermarket, greater than 65,000 square feet Floor Area, Gross" in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be changed to a prohibited use ("N"). A copy of the Proposed Zoning Bylaw Changes are on file with the Town Clerk's Office, the Planning Board office and the Town's website (www.townofmaynard.net) under Planning Division. Bernard Cahill, Chairman, Maynard Planning Board

BC indicated the reason we are doing this tonight is because of our original advertisement for this warrant article, we ended up being outside the scope of our original intent. To cover our bases legally we had to reconvene a Public Hearing on this. It is already in the Warrant for the Town Meeting in two weeks. We had no intention of changing any of the language tonight.

ES noted the proposed changes are Article 9 in the Warrant and public comment is still warranted.

BC opened up the hearing for Public Comment.

ES noted he received an email from Tom Hesbach, Board of Director Vice-President of Assabet Village Co-op, who indicated he is fine with this language as it represents the spirit of the September 24th Planning Board meeting.

BC asked for any additional input from the Board members. Board members did not have further comment.

GT made a Motion to close the Public Hearing. Seconded by KC. Vote 3 to 0 to close the Public Hearing.

Vic Tomyl (VT): I would like to ask a question for information. Why are we so hung up on the Supermarket? You don't normally say you can't have a drug store here that exceeds x amount of square feet. Why are we so hung up on a Supermarket, other than the fact you had this wing-ding stuff up at 129 Parker Street? Can you justify as a Planning Board specifying a particular use for a particular area. You disallowed a Supermarket in Health Care/Industrial. BC and GT: Not totally, allowed just up to a certain size 65,000 square feet.

VT: As I asked the question once before, what you are going to do about your parking regulations in relation to this? BC: Whatever came in will have to confirm with our existing regulations for parking. VT and the Board had further discussions related to matter of allowing a Supermarket and meeting the Town's parking requirements under Zoning.

VT raised the matter of a covered walkway in relation to Supermarket square footage. The Board and Town Planner noted they are considering that as outdoor storage, as one side is facing the open. Further discussion on this matter ensued.

KC: My one comment as to why focus on Supermarket it was pertinent at the time and there was discussion about should we have a hearing that expands to all industrial or commercial uses in these districts and it was decided that was yes there should be that discussion. But at this point we are focusing on Supermarket and in the future the Board may take some of the other uses and refine their allowed sizes and what not too.

ES: You do have Article 11 which is maximum retail building size of 65,000 square feet.

VT: I really wonder if the Attorney General is going to approve this on the basis that you are specifying one particular type of retail outlet. BC: I can tell you they well as the AG already has. Just not in our Town.

VT: I may not agree with what you do, but I appreciate you doing it. BC: We are trying. The voters will have their say in two weeks.

GT made a Motion to recommend to keep the language as advertised and to endorse Article 9 of the Warrant. Seconded by BC. Vote 3 to 0 in favor.

Old/New Business

Submittal of 4-Lot Preliminary Plan, 129 Parker Street

BC asked ES to lead discussion of the 4-lot Preliminary Plan for 129 Parker Street.

ES noted the Board has received a letter from the Applicant indicating they could not be present tonight.

ES: I can explain the subdivision first, but the subdivision is kind of a game changer, per the Mass Zoning Law for grandfathering protection. On Friday, October 11th 129 Parker Street developers filed a 4-lot Preliminary Plan, which I do have Town Counsel's opinion that I had forwarded to the Board members via email. So that Plan was filed and you have 45 days to render a decision. But the Applicant is not able to attend tonight's meeting to give a presentation so I didn't know how much time you wanted me to spend on it given that the Applicant is not here.

BC: Does it make sense to actually put it on the Agenda rather than "Old/New Business" but as an item? ES: If you want to put a time certain for next meeting that sounds good. The Board and Town Planner had further discussion regarding scheduling and procedural matters related to the Preliminary Plan submittal.

The Board noted for the record that they are accepting the Plan at this meeting.

GT: I looked it over. It didn't seem like for the design, that it really wasn't much to react to. They are chopping it up further to trigger the protections. GT asked for clarification on the previous ANR Plan versus this Preliminary Plan related to Zoning Protections.

BC: It is typical for nonresidential uses for developers to submit a Preliminary Plan. Back in last May/early June, they submitted an ANR subdivision plan dividing it into two lots. That froze the uses, but not dimensions, at 129 Parker. ES: The use freeze protections are for three years. BC: On October 11, 2013 they submitted a 4-lot preliminary subdivision plan. They just had to hit all the right points to make a complete application. BC noted based on the Town Counsel Legal Opinion there is a total 8-year freeze. Everything that is in the Town Meeting Warrant for zoning will not apply to 129 Parker Street. ES added that he assumes they come in with a Definitive Plan within 7 months of the Preliminary Plan decision.

Question from unidentified member in attendance: Did they tell you in that application what they want do with that property? BC: No. You are welcome to come up and look at it. As Greg said there is not much detail. They are just splicing it up more. The Board and the Town Planner described the 4 lots proposed by the Preliminary Plan.

GT: One question I had is if they are proposing the road as a Town Road or is that a Private Road? ES: They don't say. It is also exceeding your cul-de-sac standards. Anything larger than five hundred feet requires a Waiver. That road, I forget the exact dimensions. But it is over 500 feet; I think it is 1,000 feet or ¼ mile range. These are discussions we can have with them.

VT: What they are doing Mr. Chairman is protecting their options. Somewhere in our zoning regulations you have a maximum length for cul-de-sac. My understanding is that it is measured from the centerline of the road. But it doesn't go to the length that you people are taking about. The max is 90 feet or something. VT noted they had that problem on Oscars Way. The cul-de-sac was going to be too far in and most of the time if you do any homework they had the same problem, I believe, in a development off Old Marlboro Road. I can remember a development getting turned down one time because of one of the many exemptions was the fact that the cul-de-sac was too long. Most of your public safety agencies don't like a cul-de-sac.

KC: I couldn't envision how the ANR overlaid on top of the proposed Preliminary Plan. ES: The ANR would go out the window with approval of Preliminary Plan. It would supersede it.

BC then read the Town Counsel Legal Opinion into the record.

The Board then scheduled a review and discussion of the 4-Lot Preliminary Plan for 129 Parker Street at 7:45pm on Tuesday, November 12, 2013.

Discussion of 129 Parker Street Next Steps in Planning Process

GT: It strikes me as relevant to consider this concept of they are making a public road through that property while there is still a parallel design process going on, where everything is on the table still. Still thinking big about what this place should be. If we were to approve this subdivision plan

and then they still went through with what their proclaiming to be their preferred course of action, which is NBOD and so forth.

KC: Eric, maybe you can comment on the latest on the re-visioning sessions.

ES: Max was actually at the Selectmen's meeting last week. The Selectmen are now wanting to create a 129 Parker Ad Hoc Committee, which is consisting of 4 appointments by the Board of Selectmen, an appointee of the Chair of the Finance Committee, a Planning Board representative which we are hoping to have the Board make a decision on tonight, as well as they appointed me to be a member of this Committee. They want to start off with a kick-off meeting on Wednesday, November 6th. We will have to have discussions with this new group about what nights the meetings will be on.

BC noted it's a weekly commitment.

ES: The latest is also, which the Board may be aware of, the developers of 129 Parker have filed a 40B Application with MassHousing. It is not an official 40B Application with the Town yet cause 40B Applications have to go to MassHousing for their review. That review is called the Site Approval process. As part of that process, at some point, the Town will get a 30-day review process to give our comments back before MassHousing issues Site Eligibility or not.

ES: At that Selectmen's meeting, the developers indicated they were only doing that to protect their rights. They said they still intend to go through the facilitated planning process to come up with development program/mix of uses that would be both palatable to 2/3 voters for any zoning changes as well as be economical from the developers perspective.

ES then provided the Planning Board with their options for action regarding the 129 Parker Street Preliminary Plan: 1) Approval, 2) Approve with Modifications or 3) Disapprove. ES: Any concerns you have regarding maintenance of a Town road this is the time of the preliminary plan review to bring that into consideration.

GT: I guess what I am asking, when the Definitive Plan is signed, they give that land to the Town at that moment? Is that right? The Planning Board and ES help to answer by saying no. VT: That road has to be constructed to whatever the construction deal is and then it has to be approved by the Town, dedicated and accepted by the Town.

GT and the Board had further discussions regarding the Preliminary Plan submittal and the 129 Parker Street facilitated planning process.

John Kulik, 6 Field Street: Can I say something about that Committee? We have had discussions about what people would like to see there. Something that fits in with the Maynard environment. We have had these visioning sessions and now as I understand the developer wants to subdivide the thing into 4 zones, sort of speak. Now we have a Committee. I just want to know, where are we going with this thing? What is the goal of the Committee?

BC: It is my understanding that this Steering Committee, now that they have had the Visioning Sessions, the Developer/Owner is going to come up with some more concrete conceptual plans. Not just one or two, but three to five. The idea of this Committee would be to really hash it out with the different ones. Then have the Committee itself come to an agreement on which one makes the most sense and get the majority support of that Ad Hoc Committee.

BC: At that point, if they can get to that point, then the Developer would take that final version, touch it up with all the final details and then submit it as the actual application to the Town and us. And then the official process would start. The idea is to take all the big ideas that you guys had at those meetings to make them practical and happen and look at them on paper and decide, with these appointed stakeholders. There would be a calendar to get it done.

GT: Also simultaneously they also have, rather than conjecture like last time, they will have a 40B application and a frozen subdivided site as their concrete back-up plan.

BC: I had a question for Eric regarding this. The 200 versus 380 they are proposing for the 40B.

ES: 200 is the large scale number for the Town of Maynard. It is based on year-round housing units. We are in the 4,400 range, because of that we are 200. I have talked with a representative from MassHousing who has concerns with their proposal.

BC: Concerns with what, the size? ES: Yes. Because MassHousing does not want to approve something that the Town could automatically deny.

BC: Anything over a large scale project we could automatically deny no question. ES: without it being appealed to the Housing Appeals Committee, which is the relief for 40B projects. The Board and Town Planner further discussed aspects of 40B application procedures and the 129 Parker Street property.

ES discussed interest of the Concord Mews 40B developers in Concord for a potential 40B at the 109 Powder Mill Road property. GT: So you are saying there is a race on for the last remaining affordable units in Town? ES: I guess you could say that. GT: You fill that deficiency up to 10% then 40B does not apply to the Town anymore, right? ES: You can if the Town wants. There is an Amherst case, which is over 10% and did approve a 40B. Some abutters appealed saying the Town shouldn't have approved it given the 10% requirement was met. But the Town said the housing is serving an identified need for the community still. It went to Court. The Town was successful and the abutters appealing the case lost. It gives the Town the right to deny the 40B if you are above 10%.

Unidentified woman in audience: If a 40B project goes in at 109 Powder Mill, would that get us to the 10%? ES: Well based on the numbers you have now, and the 40B Inventory is missing the units the 40B units the Town should be getting over at Marble Farm, you are about 83 short, in that range. Yeah, if they propose 200 units at 109 Powder Mill like the developers claim they want to do, yes we would be over, once and if it gets approved.

Vic Tomyl: They have two options with that Chapter 40B. They could do what they did down here on the old Essco property; make all the units low cost rental units. Or they can make individual housing units and actually sell them at a reduced rate. They have the option to go both ways. I haven't been able to get an answer from anybody as to why these guys went 350 units down there (in Concord) all Chapter 40B. BC: I don't know. The Board, Town Planner and Mr. Tomyl had further discussions related to the Concord Mews project and that project's mitigation.

BC: So I think the next step at this old/new business point is to actually then pick someone to represent the Planning Board. BC: I was going to nominate Greg, but he has a new baby so he is kind of busy. BC asked if KC has any interest. BC: I am ok doing it. KC: I would decline. BC: I will nominate myself that is fine. That means the CPC thing, Community Preservation Committee, Chuck will do that through next Summer.

Planning Board vacancy on Maynard Community Preservation Committee

The Planning Board then moved into their discussions regarding the vacancy of a Planning Board member to serve on the CPC Committee.

KC: What was the final happy ground we arrived with them? They moved to alternate weeks when we don't meet?

ES: Yes. They did. They really need a quorum as they are going to start voting on recommendations for the next Town Meeting. They did listen to your concerns as their (CPC) meetings are on the 2nd and 4th Wednesdays and since there are no Selectmen on the CPC, they did not have a problem moving it to the 1st and 3rd Wednesdays, which will now be their meeting nights. They are hoping to get a nominee tonight so they are able to get quorum.

BC: I think Chuck would be good on it. If he doesn't like it after a couple months, after this (129 Parker Ad Hoc Committee) process wraps up and he wants to resign, I could always take over, if it is too much for him.

BC asked if all members were in favor of nominating Chuck for the CPC. Unanimous decision of Board members in attendance.

Discussion of Preparing for Presentation of Proposed Zoning Bylaw Amendments at the November 4th Special Town Meeting

BC: I think our discussion tonight kind of goes over preparing for the Meeting.

ES: I just kept this matter on here cause the Board discussed doing presentations and I wanted to leave you the time to discuss further because this is your last Planning Board meeting before the Special Town Meeting.

BC: I think Town Counsel's thing going to certainly sum up all of us who are discussing an article that night.

BC: I think what we need to express, and I will say that up there, I don't think I would have gotten a majority of you guys to continue this in June if we decided to take on the whole Town with each of these and not just that one site. I can remember Kevin saying that in June that he wasn't comfortable with just focusing on the site.

BC: Maybe it was a reaction not to what was going on at 129 Parker Street, but after the vote and the fight between the concerned citizen group and the Developers over the definition of Supermarket. If this is a problem at 129 Parker it could be a problem anywhere in Town. I think that is why we took on all these articles, not just for 129 Parker, but what is best for across the Town. We did it to clean up the zoning, that was my motivation.

ES: Plus the other two articles that came out of your initial hearing on the Supermarket definition, like having Special Permit requirement for a new buildings, that is a tool that not all Towns in Massachusetts have, but most towns I am familiar with have some requirement thresholds like that. In some towns it is smaller than the 25,000 square feet, it is as low as 10,000.

BC: Max forwarded me an email a discussion he had with someone in Town. He wrote in his email that this person was concerned about being an unfriendly business environment with the Special Permit threshold. Max was saying look you need a Special Permit for signs over 60 square feet or whatever in Town, so don't tell me any serious business person can't do a Special Permit.

KC: For 129 Parker Street, just because they submitted the Preliminary Plan doesn't mean that is the Plan they are going to go forward with. There is still the Selectmen appointed Committee that is being developed. If these Articles pass at Town Meeting, this is an additional protection, additional thing in the pocket of the Town of Maynard to say look this is what you are limited by. Clearly it seems that the Developers still have interest in trying to pursue routes that might be more economical for them. Otherwise I don't think they would be spending the time. I don't think it is just a façade to be spending the time and going to these meetings. It does cost time and money on their part too. I don't recommend mentioning the applicability to 129 Parker Street unless someone brings it up as a question. ES and BC: It will be brought up. KC: It is still very much up in the air what is actually going to be built.

GT: Calling it reactionary zoning is an unfortunate comment.

The Board and Town Planner had further discussions related to the proposed zoning articles for Town Meeting with regards to 129 Parker Street. BC noted the proposals lets developers know what we do want and not just want we don't want.

KC: Since I was not able to attend the last meeting, who is doing the presenting? BC: I am doing the Medical Marijuana article, the two Supermarket articles specifically – the definition one and the use one. GT: I am doing the Special Permit threshold. BC: Chuck will be doing the other one. GT: The retail cap article. KC: And you'll do the additional Medical Marijuana if need be? BC: Oh yeah the extension. Let's hope there is only one. I'll do that.

Town Engineer/DPW Memo re: Taylor Road Subdivision

ES: I put this matter up again as there was an incorrect page numbering issue (in the Town Engineer Memo). I think Chuck identified it last time. We now have an estimate of what it would take, if they ever come in to request the release of Lot 10 from the Taylor Brook Subdivision, we have a Memo from our Town Engineer with all the work that needs to be done. And that is what we will hold them to. The amount is \$130,000.

McDonald's Temporary Exit onto Main Street

BC: I believe Max was going to speak about the McDonald's exit and he is not here.

ES: I did try to find the decision on that one. I found a box in the storage room with the help of the Building Commissioner. Let's put this matter on the Agenda for the next meeting. I know that there is an issue. I actually was at McDonalds today. You can see how the exit is supposed to go closer to the Bridge, but it's having people go right to where Main and Waltham start. At least I have become familiar with the issue now.

BC: Max might actually have an electronic copy of the decision; he was on the Board then.

ES: We will get the decision.

Correspondence

ES brought to the attention of the Planning Board other various correspondence received by the Board since the last meeting.

BC made a Motion to adjourn the meeting. Second by KC. Vote 3-0 in favor to adjourn.

Prepared by Eric R. Smith, AICP, Town Planner

List of Documents Entered into the Records *On file at the Office of Municipal Services*

1. Letter from Capital Group Properties requesting that the 129 Parker Street Preliminary Plan hearing be rescheduled until the November 12, 2013 Planning Board meeting.
2. Town Counsel Legal Opinion – Subdivision Freeze 129 Parker Street