

## Marblehead Planning Board

July 12, 2016

Members present: Phil Helmes, Edward Nilsson, Jim Bishop, Bob Schaeffner, Rosanna Ferrante, Barton Hyte. Others present Rebecca Cutting Town Planner

A quorum being present the meeting was called to order by the chairman at 7:30 pm

### **Approval Not Required - 2-4 Anchorage Lane**

Robert McCann Attorney presented plan explaining that this was a swap of land from # 2 to #4 identical in size and does not create any non-conformities. The board found that the division of the tract of land shown on the plan is not a "subdivision" because it shows a proposed conveyance, which adds to/takes away from lots in such a manner so that no lot frontage is affected. A motion was made and seconded to endorse the plan. All in favor

### **Site Plan Approval - 14 Foster Street**

The Planning Board opened a hearing on the application for a Site Plan Special Permit pursuant to Site Plan Approval Special Permit Section 200-37 of the Marblehead Zoning Bylaw. Attorney Robert McCann explained to the board that the Applicants are requesting approval for the issuance of a site plan approval special permit for the construction of a single family structure within a shoreline district, to replace an existing single family structure. He explained the proposal in more detail that the lot is 53,000 square feet which is far in excess of the 35,000 requirement and has 130' of frontage. The new building meets all of the dimensional requirements in the zoning bylaw, except for height. The applicant will be seeking special permit from the board of appeals to exceed the maximum allowed height..

Tom Saltsman, project architect, presented the submitted plans entitled Architectural Plans 14 Foster Street prepared by Saltsman Brenzel of Boston MA dated 5/17/2016 consisting of the following Sheets A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8. He explained how the house fits the character of the neighborhood and the materials that will be used and that the existing foundation from an older house was being used. Jim Bishop asked how the existing foundation will be utilized if the footprint is changing. The architect answered that it is not the foundation of the house that is presently there rather a previous house on the lot. Bob Schaeffner inquired about windows in the existing stone foundation and Ed Nilsson asked what type of roof would be used. The architect answered standing seam metal. Discussion ensued on the driveway which is staying where it is and being expanded. Rosanna Ferrante asked about the impact on neighbors. McCann stated that they had met with abutters and there were no issues.

The board discussed how they felt this was a responsible use of exceeding the height limitation in the shoreline district and this should be conveyed in writing to the board of appeals.

A motion was made and seconded to close the public hearing and approve the Application as complying with the requirements for the issuance of a Special Permit subject to the usual conditions (5-0) Helmes, Hyte, Bishop, Nilsson and Schaeffner, in favor

### **Public Hearing Site Plan Approval 93/95 Beacon Street & Public Hearing Land Disturbance Permit 93/95 Beacon Street**

The Planning Board opened a hearing on the application for a Site Plan Special Permit pursuant to Site Plan Approval Special Permit Section 200-37 of the Marblehead Zoning Bylaw and a land disturbance permit section 195 Stormwater Management and erosion control. Scott Burke the Attorney for the project stated he was also the brother of the developers Joe and Jim Burke, explained the history of the site. In 2015 two lots owned by one family were purchased by the Burkes. An ANR was obtained for a four lot subdivision. A single family structure at 93 Beacon was subsequently built and sold. The building commissioner's interpretation that site plan approval special permit was not required because the property was going from two lots to four causing an increase of two lots not three which is the threshold for site plan approval. This ruling was appealed to the board of Appeals who overturned the building commissioner's decision which is why they are before the board for site plan approval. The four lot ANR was also challenged in land court on the grounds that a deed restriction did not allow Corn Point Road to be used and therefore although it had frontage it had no access. A judge ruled from the bench that the four lots were not allowed; although nothing had been received in writing. It is their intention to challenge the judge's ruling on the access issue.

The town planner explained that the interpretation has always been that site plan approval was triggered by three additional lots although now that the board of appeals has overturned that interpretation, the interpretation will be changed. She went on to say the house at 93 was built following the rules and that the board of appeals ruled on the issue after that house was built.

Discussion ensued on why they were proposing four lots when they have a ruling saying that cannot be a lot. They stated that if land court does not rule in their favor then they will build a structure in that same location as an accessory building.

The architect Chris Papapas explained the houses. One existing house was razed all three residences would access through the existing curb cut on Beacon Street. Sixteen trees were removed eight of them were dead

Vicky Masone from VM Consulting Engineers of Salem explained the drainage existing and proposed conditions. A discussion of material including permeable driveways would be used.

Bob Schaeffner expressed concern that the new owners may not properly maintain the pervious asphalt and asked about maintenance long term.

Rossana Ferrante would prefer the calculation was done on worst case scenario in case a homeowner in the future were to pave the driveway.

Scott Miller gave the board his comments that he had reviewed the plan he stated it is not a complicated system the pre and post run off conditions were accurately evaluated. The post development run off conditions were less than the existing condition projection and the balance of run off toward Beacon and Corn Point were similar pre and post development – there was not a shift of run off back to Corn Point. He was concerned with the drainage related to the longevity of the proposed mitigation, particularly with respect to the pervious drive and parking areas in front of the homes. It will require positive action by the future homeowners to maintain the system. The applicant is to evaluate the potential impact of run off on to Beacon should the pervious driveway become clogged or repaved.

The Chair asked that the engineer work with the applicant engineer to establish secondary mitigation alternatives to address this concern.

The chair asked if there was anyone in the assembly that wished to speak

Attorneys David Mack and Tara Myslinski representing Velji, Carter and others had comments on the procedural issues; the 4 lot subdivision has been annulled. The frontage on Cornpoint Road is illusionary so this cannot be built so this will be an entirely different plan. They can't build this so they should not go forward with this plan. One of the purposes of site plan approval is to preserve the character of the site, since they already clear cut the lot what is left is a dramatic change to the environment. Would like an opportunity to review the revised drainage information. They feel the developers have taken liberties with the calculations on the amount of land disturbed for utilities.

Davis Nutt 91 Beacon Street - his family is not part of any lawsuit. He is concerned because he chose this location in Marblehead because it is a wooded. That is the character of the area. By removing all of the trees and putting in lawn, it like a golf course, it creates a look that and is not typical or appropriate for this area.

Charles Trowbridge 7 Bradlee Road shares concerns with neighbors. He does not think the statement that only 16 trees were removed is correct. He believes that many more than 16 trees were removed. The updated plan would cause blocked light and is concerned mostly

with the building that may be a house or maybe an accessory structure. Seems to be making it up as they go along. What size is the building? The Height?

Carlton Sparrell 1 Bradlee Road stated he has never been asked for input there is one nonconforming structure still on the lot which is the existing garage and they have been negatively impacted by clear cutting that has occurred.

Chris Trowbridge 7 Bradlee Road is concerned with privacy. The proposed house is set so that it is squarely above them they would like to see a plan for landscaping to mitigate the damage that has already been done but tree removal. She mentioned that the Burkes placed a security camera towards their property.

Jeff Carter 5 Cornpoint bought his home last September in the wooded setting and has deep concerns about the development. He is concerned about drainage at the low point and the dramatic alteration of the land. He urges the board to get the information they need and study the plan.

Mike Velji 4 Cornpoint Road - He thinks the plan is deceptive. He has issues with the utility excavation numbers that have been subtracted from the analysis. The trenches are 20' wide to expose a 6" pipe. Wants time to look at this more closely. He believes the placement of the building is spiteful here is no reason for it to be where it is located.

The Burke's addressed the statements made by the public. Jim Burke showed photographs of the site, the condition of the abutter's properties. He stated that a 20' wide trench was needed to access the 6" pipe. He said trench construction is complicated and had to be done safely. Scott Burke expressed that they followed the rules and have a half built house and want to finish it. They have complied with the requirements and would like to move forward.

A lengthy discussion ensued on whether to approve the plan with conditions that eliminate the third lot. It was decided it was too complicated and more information was needed. A discussion was then held on whether the board could at least issue the land disturbance permit. The Charmian looked for a motion to close the land disturbance hearing and issue the permit with the standard. The planner read through the standard conditions. More discussion ensued and Board members felt more information was needed.

Discussion on what was needed for the next meeting.

One plan showing all three houses on one site plan including 93 Beacon Street.

A plan showing of what exactly is being proposed for an accessory structure;

Proposed landscaping plan to include screening proposed;

All of the information requested on the drainage including calculation for paved driveways and a trench catch basin and driveway; and

A profile cross section of the site

The Burkes attorney was not available on the next regularly scheduled planning board meeting date of August 9<sup>th</sup>. The board agreed they could meet on August 18 at 7:30 PM

A motion a made and seconded to cont. to 7:30 pm on August 18, 2016 all in favor

All requested information must be submitted a minimum of one week prior to the hearing date.

The meeting was adjourned.

Respectfully submitted

Rebecca Cutting