

HAVERHILL PLANNING BOARD MEETING MINUTES

DATE: Wednesday, February 13, 2019

Place: City Council Chambers, Room 202

Time: 7:00 PM

Members Present: Bill Evans, Robert Driscoll, Alison Colby-Campbell, Paul Howard and Ken Cram

Members Absent: Karen Buckley, Karen Peugh and April DerBoghosian, Esq.,

Also Present: William Pillsbury, Planning Director

Approval of Minutes:

January 9, 2019

After board consideration, Member Robert Driscoll motioned to approve the January 9, 2019 minutes. Member Alison Colby-Campbell seconded the motion. Members present voted in favor: Paul Howard, Ken Cram, Bill Evans, Bob Driscoll and Alison Colby-Campbell. Member Absent: Karen Peugh, April DerBoghosian, Esq., and Karen Buckley. **Motion Passed.**

Planning Director William Pillsbury read the conduct of hearings into the record. Mr. Chairman, we have a request to continue 3 of our hearings tonight.

Public Hearings:

Definitive Plan for Marbles Lane:

It was noted that the applicant's engineer requested a continuance until the March 13, 2019 Planning Board meeting.

After board consideration, Member Alison Colby-Campbell motioned to continue until the March 13, 2019 Planning Board meeting at 7:00 pm in the City Council Chambers. Member Bill Evans seconded the motion. Members present voted in favor: Paul Howard, Ken Cram, Bill Evans, Bob Driscoll and Alison Colby-Campbell. Member Abstained: Members Absent: Karen Buckley, Karen Peugh and April DerBoghosian, Esq. **Motion Passed.**

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List of all documents and other exhibits used by the public body during the meeting.

- Letter of continuance, February 7, 2019

Definitive Plan Modification for Emma Rose Circle: Please be advised, the Haverhill Planning Board at its meeting held on 2/13/19 at 7:00 p.m. in the City Council Chambers continued the above cited definitive plan to the March 13, 2019 meeting. It was noted that the board received a request to continue until the March 13, 2019 Planning Board meeting from the applicant's engineer on February 12, 2019.

After board consideration, Member Alison Colby-Campbell motioned to continue the hearing to the March 13, 2019 Planning Board meeting at 7:00 pm in the City Council Chambers. Member Bill Evans seconded the motion. Members present voted in favor: Bill Evans, Alison Colby-Campbell, Bob Driscoll, Ken Cram and Paul Howard. Members Absent: Karen Buckley, April DerBoghossian, Esq. and Karen Peugh. **Motion Passed.**

List of all documents and other exhibits used by the public body during the meeting.

- **Letter of continuance, 2-12-19**

Definitive Plan for 316 Gile Street: Please be advised, the Haverhill Planning Board at its meeting held on 2/13/19 at 7:00 p.m. in the City Council Chambers continued the above cited definitive plan to the March 13, 2019 meeting. It was noted that the board received a request to continue until the March 13, 2019 Planning Board meeting from the applicant's engineer on February 11, 2019.

After board consideration, Member Alison Colby-Campbell motioned to continue the hearing to the March 13, 2019 Planning Board meeting at 7:00 pm in the City Council Chambers. Member Bill Evans seconded the motion. Members present voted in favor: Bill Evans, Alison Colby-Campbell, Bob Driscoll, Ken Cram and Paul Howard. Members Absent: Karen Buckley, April DerBoghossian, Esq. and Karen Peugh. **Motion Passed.**

List of all documents and other exhibits used by the public body during the meeting.

- **Continuance Letter, February 11, 2019**

Planning Director, William Pillsbury: At this point, Mr. Chairman I would ask to move up the administrative portion of this agenda so we can deal with a couple of escrow

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accounts. Attorney Bobrowski is here this evening and has an early time commitment. I would move to the definitive escrow section of the agenda.

Definitive Escrows:

Comanche Circle/Cobblestone: Please be advised that the Haverhill Planning Board at its meeting held on 2-13-19 endorsed the above cited extension agreement. The board was advised that the City Solicitor William Cox determined that the agreement was acceptable as to form, which was attested to by his signature on said document. Planning Director William Pillsbury advised the board that the developer was requesting to extend to August 22, 2019 for completion and September 22, 2019 for funding. After board consideration, Member Robert Driscoll motioned to endorse and accept the extension agreement. Member Bill Evans seconded the motion. Member Bill Evans, Kenneth Cram, Alison Colby-Campbell, Bob Driscoll, and Paul Howard all voted in favor. Member Karen Peugh, Karen Buckley and April DerBoghossian, Esq. was absent. Motion Passed.

Please Note: The extension agreement needs to be recorded at the Registry of Deeds and proof needs to be provided to the Planning Office.

List of all documents and other exhibits used by the public body during the meeting:

- Escrow Material

Scotland Heights: Please be advised that the Haverhill Planning Board at its meeting held on 2-13-19 endorsed the above cited extension agreement. The board was advised that the City Solicitor William Cox determined that the agreement was acceptable as to form, which was attested to by his signature on said document. Planning Director William Pillsbury advised the board that the developer was requesting to extend to February 8, 2020 for completion and March 8, 2020 for funding. After board consideration, Member Robert Driscoll motioned to endorse and accept the extension agreement. Member Bill Evans seconded the motion. Member Bill Evans, Kenneth Cram, Alison Colby-Campbell, Bob Driscoll, and Paul Howard all voted in favor. Member Karen Peugh, Karen Buckley and April DerBoghossian, Esq. was absent. Motion Passed.

Please Note: The extension agreement needs to be recorded at the Registry of Deeds and proof needs to be provided to the Planning Office.

Crystal Springs Escrow: Please be advised, the Haverhill Planning Board at its meeting held on 2-13-19 established, endorsed and revoked the purported rescission of the approval of the Crystal Springs subdivision, effectively immediately.

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Attorney Mark Bobrowski representing the City of Haverhill addressed the board. We have before you this evening the reinstatement of the performance guarantee for Crystal Springs and the revocation of the purported rescission. We will do one item at a time. The first is the work of the City Engineer who worked with the Bank to come up with an agreeable amount which is in a letter that he wrote to the Planning Board on February 7, 2019. This amount does not include the booster station because it is under construction now. There is no need to have a performance guarantee for it anymore. Ultimately it's a complex letter with many parts to it. After discussing the matter with the bank the remaining work to be done with a margin of error and appropriate rate of inflation is \$992,329.25. If the board finds that acceptable than a motion to that effect should be made.

Member Ken Cram motioned to accept the City Engineer's estimated amount for the new performance guarantee for the Crystal Springs Subdivision in the amount of \$992,329.25. Seconded by Member Robert Driscoll. All members present voted in favor. **Motion Passed.**

With that the Bank representative, Attorney James Hall is to my right. He has the Letter of Credit in final form subject to a couple of additions that I would like to have made to it. There is no reason why you can't take what Mr. Hall is about to give you. I will introduce Jim to talk about that and when the board does, a motion, it should be made to add a signature line for you Mr. Chairman and for me to approve it as to form as City Solicitor.

Attorney James Hall, representing the Lowell Five Cents Savings Bank in this matter addressed the board. We do agree with the analysis that Mr. Pettis had gone through, a very lengthy engineering analysis. We have prepared an irrevocable stand-by letter of credit signed by the President of the Bank to secure that. In talking with the Attorney we are going to add a signature line so the board signs. That is fine with us. I will present this to the clerk and have it submitted to the board.

Attorney Mark Bobrowski: Keep one thing in mind; this is not a tri-partite agreement. We only have two parties. The bank owns the property. This letter of credit is a functional equivalent of the tri-partite agreement. There have been four tri-partite agreements out there (recording skipped) when there is only two parties. If the bank sells it to a third party then we would have a fifth tri-partite agreement and the bank will guarantee that. With that in mind if there is a motion to accept the Irrevocable Stand-By Letter of Credit that would be appropriate.

Member Ken Cram motioned to accept the proposed Letter of Credit of the Lowell Five Cents Bank as the new performance guarantee for the Crystal Springs Subdivision, with a signature space to be added for the Chairman of the Planning Board by Special Counsel. Member Robert Driscoll seconded the motion. All members present voted in favor. **Motion Passed.**

Attorney Mark Bobrowski: In having now brought the subdivision back to life it is appropriate for the board to revoke the purported automatic rescission that transpired

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through the fall of 2017, bankruptcy occurred on the premises before the bank (recording skipped) I believe in fact would be appropriate at this time.

Member Ken Cram motioned to revoke the purported automatic rescission of the approval of the Crystal Springs Subdivision, effectively immediately. Member Robert Driscoll seconded the motion. All members present voted in favor. **Motion Passed.**

Attorney Mark Bobrowski: I will give Bill Pillsbury the bank's stand-by letter of credit and with that if there are no other questions, we are done for the evening.

List of all documents and other exhibits used by the public body during the meeting.

- Escrow Documents

Street Discontinuance for a portion of I Street located between Boston Road and Oxford Avenue: Please note at the February 13, 2019 Planning Board meeting the board considered the recommendation of the Planning Director, William Pillsbury, Jr., to forward a favorable conditional recommendation for a street discontinuance for a portion of I Street located between Boston Road and Oxford Avenue.

The Planning Director read the rules of public hearing into the record.

Attorney Robert Harb of 17 West Street addressed the board on behalf of the applicant. We are asking for a favorable recommendation from the Planning Board so I can then go to City Council to ask for this portion of the paper street to be discontinued. All of the abutters to this section have filed consent with the City Clerk. This paper street has been a paper street since 1892. There appears to be no reason to keep it a street. It's unlikely that it will be developed and none of the abutters want it developed. We went through a number of different plan configurations with the City Engineer. The latest plan that you have is the one that he approved. You will note on this plan that it calls for the Davidowicz property (top right had side) to give an easement. I have already prepared that easement and sent it to the City Engineer for his approval. Mr. Davidowicz has already given his consent to that easement. This was also filed with the City Clerk. We would ask for a favorable recommendation. There have been no objections from the City Departments. We would ask for a favorable recommendation and if you wish to add subject to the easement approval by the City Engineer we are okay with that.

Chairman Howard asked if anyone from the public wished to speak.

Amy and Matthew Lotti of 30 Oxford Avenue stated they were in favor of the petition.

Chairman Howard: Anyone else wish to speak? Hearing none, we will close the public portion of the hearing and turn it over for comments from the Planning Director.

Mr. Pillsbury stated this is a request for a discontinuance of a portion of the above referenced street has been filed by the abutters and under the city code any street

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discontinuance requires a hearing and recommendation from the planning board prior to the City Council hearing. The review of the plan by the City Departments indicates no objection to the plan as presented as long as the appropriate utility easement shown is preserved in the former right of way. I recommend a favorable recommendation with the condition that the utility easement be properly shown and identified.

After board consideration, Member Robert Driscoll motioned to forward a favorable conditional recommendation to the City Council as recommended by the Planning Director William Pillsbury, Jr. Member Bill Evans seconded the motion. Members that voted in favor were: Bill Evans, Kenneth Cram, Alison Colby-Campbell, Bob Driscoll and Paul Howard. Members Absent: Karen Peugh, April DerBoghossian, Esq. and Karen Buckley. Motion Passed.

List of all documents and other exhibits used by the public body during the meeting:

- Petition of discontinuance a portion of I Street dated, 12-26-18
- Order to discontinue I Street
- Letter from Building Inspector, 2-13-19
- Fire Department letter, 1-11-19
- Building Department letter, 1-22-19
- Conservation Department, 1-29-19
- Fire Department letter, 2-8-19
- Plans prepared by Christiansen and Sergi 12-6-18,1-30-19

Special permit for 121-123 Portland Street: Please note at the February 13, 2019 Planning Board meeting the board considered the recommendation of the Planning Director, William Pillsbury, Jr., to forward a favorable conditional recommendation for a special permit to allow a three family home.

The Planning Director read the rules of public hearing into the record.

Attorney Michael Migliori of 14 Essex Street addressed the board on behalf of the applicant. The applicant is looking for a favorable recommendation to the City Council for a three family home. Even though we meet all the zoning on this property we still need a special permit. As you can see from the City Departments, particularly Mr. Bridgewater he states that this lot meets all the zoning requirements. We would ask that you provide us with a favorable recommendation. We don't have any objections from the City Departments and we don't have any objection incorporating those letters into your recommendation.

Chairman Howard: Is there anyone from the public who wishes to speak in favor? Against? Hearing none, we will close the public portion of the hearing and turn it over for comments from the Planning Director.

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Mr. Pillsbury stated this is a request for a special permit to be acted upon by the City Council. Any 3 family unit is defined as a multifamily and therefore under the zoning ordinance requires a special permit to be granted after hearing by the Planning Board to make a recommendation on the plan. The review of the plan indicates that the lot complies with required zoning dimensions including frontage. The density of the proposed plan is consistent with the surrounding neighborhood. The plan has been reviewed by the City Departments and no objections have been received. I would make a favorable recommendation with the inclusion of the City Department letters.

After board consideration, Member Robert Driscoll motioned to forward a favorable conditional recommendation to the City Council as recommended by the Planning Director William Pillsbury, Jr. Member Bill Evans seconded the motion. Members that voted in favor were: Bill Evans, Kenneth Cram, Alison Colby-Campbell, Bob Driscoll and Paul Howard. Members Absent: Karen Peugh, April DerBoghosian, Esq. and Karen Buckley. Motion Passed.

List of all documents and other exhibits used by the public body during the meeting:

- **Special Permit petition, 1-8-19**
- **Conservation letter, 1-29-19**
- **Building Inspector, 1-22-19**
- **Fire Department, 1-16-19**
- **Plans by Christiansen and Sergi, 12-16-18**

Correct Zoning Ordinance for Stevens Street: Please note at the February 13, 2019 Planning Board meeting the board considered the recommendation of the Planning Director, William Pillsbury, Jr., to forward a favorable recommendation to correct an error of a prior zoning amendment on Stevens Street.

The Planning Director read the rules of public hearing into the record.

William Pillsbury, Planning Director addressed the board. Upon review of the table of uses we have become aware of an error in the processing and codification of a prior zoning amendment approved in 2015 relative to the IG zone. At the time there were two versions of the amendment on file and while the second revised ordinance was on file it was not the one actually adopted by the council. The effect, though minor, resulted in the table of uses being changed by the General Code and produced a table that required all uses in the IG zone to require a special permit. This was never the intent as the other version of the ordinance filed (but not acted upon) clearly specifies that the special permit change was only for the westerly side of Stevens Street ONLY and not for the entire IG zone. Therefore on the advice of the city solicitor it is necessary to correct this error by adopting the correct ordinance language and deleting the previously approved language and therefore revising the table of uses to the state that was originally intended. I attached the revised ordinance for your review.

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Chairman Howard asked if anyone from the public wished to speak. Hearing none, we will close the public portion of the hearing and turn it over for comments from the Planning Director.

Mr. Pillsbury stated I would recommend a favorable recommendation to the City Council.

After board consideration, Member Robert Driscoll motioned to forward a favorable recommendation to the City Council as recommended by the Planning Director William Pillsbury, Jr. Member Bill Evans seconded the motion. Members that voted in favor were: Bill Evans, Kenneth Cram, Alison Colby- Campbell, Bob Driscoll and Paul Howard. Members Absent: Karen Peugh, April DerBoghossian, Esq. and Karen Buckley. Motion Passed.

List of all documents and other exhibits used by the public body during the meeting.

- **Ordinance Relating to Zoning**
- **Economic Development & Planning Department, 1-18-19**
- **Conservation Department, 2-15-19**
- **Fire Department, 1-25-19**

Form A Plans: 369 Liberty Street- Estate of Maureen Corbett: Mary McKinney, Exec. It was noted the building inspector commented on 2-13-19 stating "Lot meets zoning requirements in the SC zone." After board consideration, Member Robert Driscoll motioned to approve the Form A for 369 Liberty Street as recommended by the Planning Director, William Pillsbury. Member Bill Evans seconded the motion. All members present voted in favor. Motion passed.

Frontage Waivers: None at this time.

Reminders for expiring Definitive Escrows:

Vincent Avenue: A reminder letter will go out the developer.

Emma Rose Circle: Please be advised that the Haverhill Planning Board at its 2-13-19 at 7:00 pm in the City Council Chambers voted to require a status report on the concerns raised by neighbors/residents of Emma Rose.

William Pillsbury, Planning Director informed the board that the office received complaints regarding the definitive plan, specifically swales in front of their houses. There were a total of three neighbors that raised concerns regarding the definitive plan for Emma Rose Circle. I would recommend to the board that we require a report from the developer on these complaints that we have received from these abutters at the next Planning Board meeting. I would like a summary of responses to whatever he has

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done or hasn't done in response to these complaints that were received. If the board agrees to that, I will send him a letter asking to provide that report as was requested by the board at the meeting. It does affect the modification as well because it deals with the swales. The swales that were built in front of their houses are not compliant with what we require. They have to be changed. I would like a schedule from him as to when those swales are going to be adjusted and corrected. There are a lot of other issues that they raised in their letters which has to do with their houses, these issues have nothing to do with the board. It's indicative to the fact that the developer is having some issues and it's important for us to call it to his attention. The Planning Board items need to be corrected in a schedule. With that, I would hope there would be consensus vote of the board to send the Emma Rose developer a letter to give us a schedule and an update on the concerns raised by the abutters.

Chairman Howard: Could the next phase be affected?

William Pillsbury: We could make it relevant relative to the swale issues. I think they are going to change the swales. The resident told me tonight that the developer got very responsive after we told him that this would be on the agenda. He showed up at his house with five people today to try to correct some of these things. My understanding is they have a new engineer working for him and will deal very differently with the swale situation. I think it's very appropriate to have it conditioned on them addressing these swale issues and doing it prior to the approval of the new plan or to do prior to release of lots for the new phase. I would like a motion.

Member Robert Driscoll motioned to send a letter to the developer regarding a status update/report for the concerns of the neighbors/residents of Emma Rose Circle. Seconded by Member Alison Colby-Campbell. All members present voted in favor. Members Present: Bill Evans, Kenneth Cram, Alison Colby-Campbell, Robert Driscoll, Paul Howard. Members Absent: Karen Peugh, Karen Buckley and April DerBoghossian, Esq. **Motion Passed.**

NOTE: The performance guarantee agreement expires on 4-14-19 for completion and 4-7-19 for funding. The developer must submit and extension agreement and Letter of Credit for the March 13, 2017 meeting. The developer should contact the City Engineer for a completion date to extend to.

Endorsement:

Definitive Plans: Sylvan Hill Definitive Plan: Planning Director, William Pillsbury stated we don't have the mylars. Chairman Howard stated we can vote to endorse. Mr. Pillsbury stated can we vote to endorse and sign. I think we got the final letter from John Pettis stating it was okay. Member Ken Cram stated I can't vote on this one. Mr.

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Pillsbury stated okay that means we don't have a quorum. Chairman Howard asked if we need a quorum for administrative? Mr. Pillsbury stated we need five signatures on the plan. I believe the five signatures need to be the five people in attendance at the meeting who voted on it. Chairman Howard stated we will do it next month. Mr. Pillsbury stated why don't we vote to approve and I will look into the signatures.

Member Robert Driscoll motioned to endorse the Sylvan Hill mylars. Seconded by Member Bill Evans. Member Bill Evans-yes. Member Ken Cram-abstained. Member Alison Colby-Campbell-yes. Member Robert Driscoll-yes. Chairman Howard-yes.

Motion Passed.

Planning Director William Pillsbury: I will figure out whether or not there is a legitimate vote or or not. I think that it is administrative vote, you may be right.

Meeting adjourned.

Signed:

Paul Howard
Chairman