

PLANNING BOARD

1 Liberty Lane
Norfolk, MA 02056

MEETING MINUTES

Date of Meeting: Wednesday, April 25, 2018

Place: Town Hall Room 124

PLANNING BOARD MEMBERS ATTENDING:

Chairman: John Weddleton (Absent)

Vice-chairman: Walter Byron

Clerk: Kevin Kalkut

Members: Michelle Maheu, Gregg Damiano

Associate Member: Erin Hunt

Others: Rich McCarthy/Town Planner, Betsy Fijol/Administrative Asst., Phil Paradis/BETA Group

Walter called the meeting to order at 7:00 pm in John's absence and informed the audience that the meeting is being audio and video taped.

Public Hearings

Project: **67 Myrtle Street**-Estate Lot Special Permit-Continued from 3/28/18

Applicant: Walter Conte/Pelcon Development Trust

Comments: Mr. Weddleton called the continued public hearing to order at 7:00 pm for the Estate Lot Special Permit at 67 Myrtle Street.

Mr. Conte presented the revised plan to subdivide the existing 7.3 acre parcel at 67 Myrtle Street into 3 lots, which consists of 2-Form A lots (Lots 1 & 2) and one Estate Lot (Lot 3). Mr. Conte explained that the revised plan was submitted that addresses all of the comments that were raised at the last meeting. He said that Bob McGhee confirmed that a scenic road tree hearing is not necessary.

Mr. McCarthy said the driveway has been pushed away from the south boundary abutter, the proposed well was pushed further away from the abutting well on the left and the existing well to the North was located on the plan. A fence was added to delineate the limit of clearing on the Conservation Restricted area to the back of Lot 3.

Jerry Nelson asked about the limit of clearing along his property line. Mr. Conte explained that a majority of trees will stay except for a few storm damaged trees.

Michelle suggested that Mr. Conte meet with the neighbors to discuss tree clearing.

Cathy Flemm said her only concern is the tree line in order to maintain privacy. Mr. Conte said that his intention is to keep all the houses as private as possible.

Michelle moved to close the hearing for 67 Myrtle Street Estate Lot. Kevin seconded the motion. The motion carried unanimously.

Michelle moved to approve the Special Permit Decision #2018-02 dated April 25, 2018 for the Estate Lot at 67 Myrtle Street. Gregg seconded the motion. The motion carried unanimously.

Project: Cranberry Heights-Open Space Preservation Subdivision Special Permit-Cont'd from 3/28/18
Applicant: Bella Rosa Stables, Steve O'Connell/Andrews Survey
Comments: Walter called the continued public hearing to order at 7:20 pm for the Cranberry Heights Open Space Preservation Subdivision Special Permit.

Mr. O'Connell said that he is in receipt of the peer review from BETA.

Mr. Paradis confirmed that all outstanding issues have been addressed and anything remaining can be worked out with the definitive plan submission. He said that he did talk to an ADA compliance officer who said that a waiver would be required if the grading is to be greater than 5%, but did not think that an 8% grade is excessive.

Michelle moved to close the hearing for Cranberry Heights Open Space Preservation Subdivision Special Permit. Kevin seconded the motion. The motion carried unanimously.

Gregg moved to approve the Special Permit Decision #2017-04 for the Cranberry Heights Open Space Preservation Subdivision. Michelle seconded the motion. The motion carried unanimously.

Project: Fern Ridge Estates- Open Space Special Permit Modification & Request for Bond reduction-
cont'd from 3/28/18
Applicant: Lou Petrozzi/Wall Street Development
Comments: John called the continued hearing to order for the Fern Ridge Estates Open Space Special Permit Modification at 7:34 pm.

The Board is in receipt of a request for a continuance of the hearing from the applicant.

Gregg moved to continue the hearing for the Fern Ridge Estates Open Space Special Permit Modification to May 23, 2018 at 7:00 p.m. Michelle seconded the motion. The motion carried unanimously.

Project: 7 Hill Street- Site Plan & Special Permit
Applicant: Jamie Bissonette/Zenith Engineering, Al Quaglieri
Comments: Walter called the public hearing to order for the 7 Hill Street Site Plan and Special Permit at 7:52 pm. Kevin read the notice of hearing into the record.

Mr. Bissonette presented the site plan to construct 9-two bedroom duplexes (18 units) at 7 Hill Street which includes a horseshoe style driveway with parking around the center of the site. The project is proposed to be served by municipal water, on-site drainage and on-site septic system utilizing a Presby System.

Mr. Bissonette reviewed the landscaping plan and explained that a row of Leland Cypress is proposed along the back side of 29 & 31 Valley Street to provide screening. Mr. Bissonette also reviewed the erosion control plan showing how the abutting properties and roadways will be protected from any kind of sediment during the construction process. Mr. Bissonette reviewed the list of waivers.

Phil Paradis/BETA Group outlined his peer review memo dated 4/24/18.

Mr. Bissonette said the applicant would like to contribute to the sidewalk fund rather than construct the sidewalks.

Erin recommended that the number of parking spaces be reduced and expand the center island and landscape the island. Erin also suggested a more natural landscape screen along the 29 & 31 Valley Street property line.

Michelle concurred with Erin and would like to see some more robust landscaping throughout the site. She also said she is opposed to the waiver for construction observations. Mr. Bissonette replied that the Board has granted that waiver in the past for private residential projects.

Walter opened the hearing up for public comment:

Christopher Prince, 9 Hill Street, inquired about how much gravel will be removed. Mr. Bissonette said it proposed to work with existing grades as much as possible.

Tom Martin, 42 Everett Street, said that he is concerned with the density of the project.

Elizabeth Whitney, 26 Valley Street, said that she is proud of the beautiful homes that have been built in the neighborhood.

Michelle moved to continue the hearing for the 7 Hill Street Site Plan and Special Permit to May 23, 2017 at 7:10 pm. Gregg seconded the motion. The motion carried unanimously.

Project: Proposed Amendments to Zoning Bylaws for Annual Town Meeting

Comments: Walter called the public hearing to order at 8:30 pm for the proposed amendments to the Zoning Bylaws for the Annual Town Meeting. Kevin read the Notice of Hearing into the record.

ARTICLE 15

To see if the Town of Norfolk will vote to amend Section H.3 Affordable Housing Development of the zoning bylaws by deleting the following strikethrough language and inserting the following new language in bold italics print as follows:

H.3 AFFORDABLE HOUSING DEVELOPMENT

H.3.a. Purpose and Intent:

The purpose of this bylaw is to encourage development of new housing that is affordable to low and moderate-income households. At minimum, affordable housing produced pursuant to this section H.3. shall be eligible for inclusion in the Town's Subsidized Housing Inventory as kept by the Massachusetts Department of Housing and Community Development or the successor agency thereto.

H.3.b Applicability

In all residential and mixed use zoning districts, the inclusionary zoning provisions of this section shall apply to the following uses on a parcel or parcels of land in common ownership as of the date of passage of this bylaw.

- (a) Any project that results in a net increase of ten (10) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
- (b) Any subdivision of land for development of ten (10) or more dwelling units; and
- (c) Any AGE-RESTRICTED development that includes ten (10) or more units

H.3.c Special Permit:

The development of any project set forth in Section H.3.b (above) shall require the grant of a Special Permit from the Planning Board. A Special Permit shall be granted if the proposal meets the requirements of this bylaw. *An application shall be filed simultaneously for any project set forth in Section H.3.b or within ninety (90) days after said project(s) is approved and no appeals taken. If appeal is taken an application does not need to be applied for until said appeal is resolved.* The application procedure for the Special permit shall be as defined in Section G.4.

H.3.d Mandatory Provision of Affordable Units:

1. As a condition of approval for a Special Permit, the applicant shall contribute to the local stock of affordable unit in accordance with the following requirements:

- (a) At least ten (10) percent of the units in a division of land or multiple unit development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below:
 - (1) constructed or rehabilitated on the locus subject to the Special Permit (see Section H.3.e); or
 - (2) constructed or rehabilitated on a locus different than the one subject to the Special Permit (see Section H.3.f);*or*
 - (3) ***DELETE WHAT IS IN YELLOW AND REPLACE WITH WHAT IS IN GREEN*** *an applicant may contribute contribution of funds to the Norfolk Municipal Affordable Housing Trust Fund to be used for the creation of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development. For the purposes of this Bylaw, the cash payment per affordable unit required shall be equal to the difference between the median single-family home sales price in Norfolk for the most recent calendar year as determined by the SPGA and the price affordable to a qualified purchaser as determined by the SPGA, based on applicable guidelines of the DHCD, Local Initiative Program (LIP). Where the calculation of affordable units results in fractional units, a cash payment may be made as provided in this section on a pro rata basis. The cash payment formula and timetable may be adjusted by the SPGA from time to time through the issuance of guidelines or regulations. If the SPGA issues a Special Permit to authorize a cash payment in*

lieu of units and the Board of Trustees of Norfolk Municipal Affordable Housing Trust Fund votes to accept said contributions, the payment shall be paid to the Norfolk Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale of any lots, if applicable. Alternatively, the SPGA may allow payment of said contributions according to a specified timetable in proportion to the rate of development or sale of lots. This cash contribution alternative shall apply only to homeownership developments and division of land and shall not apply to rental development.

(b) The applicant may offer, and the SPGA may accept, any combination of this Section (1-3) requirements provided that in no event shall the total number of units provided be less than the equivalent number of affordable units required by this bylaw;

(c) As a condition for the granting of a Special Permit, all affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted towards the Norfolk’s Subsidized Housing Inventory. The regulatory agreement shall also address all applicable restrictions H.3.h of this bylaw. The Special Permit shall not take effect until the restriction, the regulatory agreement and the special permit are recorded at the Registry of Deeds and a copy provided to the Planning Board.

H.3.e. 1. Provisions Applicable to Affordable Housing Units On- and Off-Site:

- (1) Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The affordable units shall be located within the subdivision unless otherwise waived by the SPGA. If such a waiver is granted, it shall be subject to H.3.f (provision of Affordable Housing Units Off-Site). The affordable units shall not be replaced with Market Rate units within the subdivision unless the developer demonstrates, to the satisfaction of the SPGA, that doing so will create a clear benefit to the Town.
- (2) Minimum design and construction standards for affordable units. Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units.
- (3) Timing of construction or provision of affordable units or lots. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market Rate Units (%Complete)	Affordable Units (%Required)
<30%	--
30% plus 1 unit	10%
Up to 50%	30%
Up to 75%	50%

75% plus 1 unit	70%
Up to 90%	100%

Fractions of units shall not be counted.

<i>Market Rate Units (MRU)</i>	<i>Affordable Units (AU)</i>
<i>10-19</i>	<i>1 AU prior to 6th MRU</i>
<i>20-29</i>	<i>Same as 10-19 plus 2nd AU prior to 19th MRU</i>
<i>30-39</i>	<i>Same as 20-29 plus 3rd AU prior to 29th MRU</i>
<i>40-49</i>	<i>Same as 30-39 plus 4th AU prior to 39th MRU</i>
<i>50-59</i>	<i>Same as 40-49 plus 5th AU prior to 49th MRU</i>
<i>60-69</i>	<i>Same as 50-59 plus 6th AU prior to the 59th MRU</i>
<i>70-79</i>	<i>Same as 60-69 plus 7th AU prior to the 69th MRU</i>
<i>80-89</i>	<i>Same as 70-79 plus 8th prior to the 79th MRU</i>
<i>90-99</i>	<i>Same as 80-89 plus 9th AU prior to 89th MRU</i>
<i>100-109</i>	<i>Same as 90-99 plus 10th AU prior to 99th MRU</i>
<i>Greater than 110</i>	<i>Same formula as above plus AU prior to 9th MRU in groups of 10 MRU</i>

- (4) Marketing Plan for Affordable Units. Applicants under this bylaw shall submit a marketing plan or other method approved by the Town through its local comprehensive plan, to the SPGA for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

H.3.e. 2. In a subdivision, the required affordable unit(s) may be provided within a two-family home designed to appear as a single family home whose exterior appearance (including a single driveway and common entryways) and architecture is compatible with that of the other houses within the subdivision. If only a single affordable unit is required (that is, if the subdivision creates exactly ten lots), the second unit in the two-family home may be a market rate unit. In no case shall the total number of units exceed the number of lots that would be allowed in a conventional subdivision. However, the bonus provisions of H.2.c.3 shall still apply to subdivisions developed under Section H.2.

H.3.f Provision of Affordable Housing Units Off-Site:

1. As an alternative to the requirements of Section H.3.e, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section H.3.d off-site. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the Special Permit review and approval process. If off-site affordable units are approved, the SPGA may allow replacement of affordable units on-site with

equivalent Market Rate units if the developer demonstrates, to the satisfaction of the SPGA, that doing so will create a clear benefit to the Town.

H.3.g Maximum Incomes and Selling Prices: Initial Sale:

1. To ensure that only eligible households purchase affordable housing units, the purchaser of a affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.

2. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.

H.3.h Preservation of Affordability; Restrictions on Resale:

1. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

(a) Right of first refusal to purchase. The purchaser of an affordable housing unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

(b) The SPGA shall require, as a condition for Special Permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section H.3.i.1(b), above. The Building Commissioner/Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

H.3.i Conflict with Other Bylaws/Ordinances:

The provisions of this bylaw/ordinance shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw/ordinance, or provisions therein, shall apply.

H.3.j Severability:

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the zoning bylaw.

H.3.k Proof of Eligibility and Inclusion:

No special permit issued under this section shall be effective unless and until the applicant provides evidence that the approved affordable units are eligible for inclusion on the town's subsidized housing inventory as kept by the Department of Housing and Community Development; or take any action relative thereto.

Mr. McCarthy explained the proposed amendments to the Affordable Housing Bylaw. The proposed amendment will establish a timeframe as to when an applicant will need to apply for the Special Permit for the affordable units. The proposed amendment will give an option to add the payment in lieu for affordable units and will clean up the timing as to when the affordable units will be delivered.

*Michelle moved to recommend **APPROVAL** of Article 15 with the amendment to the first sentence in section H.3.d.a (new section #3): delete ~~an applicant may contribute~~ and start the sentence with "Contribution" of funds. Gregg seconded the motion. The motion carried unanimously.*

ARTICLE 16

To see if the Town of Norfolk will vote to amend Section B of the zoning bylaws by adding the following new definition:

EXERCISE/AEROBIC STUDIO-

A commercial establishment open to the public for a fee that provides services and facilities for physical fitness training, which includes but is not limited to yoga, walking, running, swimming, cycling, rowing, boxing, dancing handball and racket sports. Other similar facilities featuring exercise or other active physical conditioning shall also be considered an "exercise/aerobic studio." Such uses may include meditation, nutrition, and massage as accessory uses; or take any action relative thereto.

To see if the Town of Norfolk will vote to amend Section K.7a by deleting Exercise/aerobics studio and insert EXERCISE/AEROBICS STUDIO; or take any action relative thereto.

Mr. McCarthy explained that presently exercise/aerobics studio is allowed but there isn't any definition. This article would create a new definition for **EXERCISE/AEROBICS STUDIO**. Within the new definition a studio may include accessory uses such as meditation, nutrition, and massage.

*Michelle moved to recommend **APPROVAL** of the article as amended. **The amendment is to reorder the actions:** To see if the Town of Norfolk will vote to amend Section K.7.a. by deleting Exercise/aerobics studio and insert EXERCISE/AEROBICS STUDIO; or take any action relative thereto. **Followed by:***

To see if the Town of Norfolk will vote to amend Section B of the zoning bylaws by adding the following new definition after Earth Removal:

EXERCISE/AEROBIC STUDIO-

A commercial establishment open to the public for a fee that provides services and facilities for physical fitness training, which includes but is not limited to yoga, walking, running, swimming, cycling, rowing, boxing, dancing handball and racket sports. Other similar facilities featuring exercise or other active physical conditioning shall also be considered an "exercise/aerobic studio." Such uses may include meditation, nutrition, and massage as accessory uses; or take any action relative thereto.

Gregg seconded the motion. The motion carried unanimously.

ARTICLE 17

To see if the Town of Norfolk will vote to amend zoning bylaw by adding new Section N as follows:

Recreational Establishment(s), as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, to include, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption of marijuana at a marijuana retailer location, any other types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Norfolk. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time); or take any action relative thereto.

Mr. McCarthy explained that at the December 2017 Town Meeting, the Town voted to ban recreational marijuana by a General Bylaw and this article if voted would align with the ban from December 2017, but by way of a Zoning Bylaw.

Mr. McCarthy said he will create a cheat sheet for an explanation of the Articles at Town Meeting.

*Michelle moved to recommend **APPROVAL** of Article 17. Gregg seconded the motion. The motion carried unanimously.*

ARTICLE 18

To see if the Town will vote to amend the Zoning Bylaws Section B, Definitions, by amending the definition for "Limited Used Motor Vehicle Sales" by making the following revisions, with underline type indicating additions and strikethrough type indicating deletions, or take any other action relative thereto:

LIMITED USED MOTOR VEHICLE SALES - use of an office, building and/or site to conduct a business requiring a Class 2 License under the provisions of G.L. Chapter 140, Section 59, for the sale and preparation for sale of used motor vehicles, but which does not ~~store, maintain, or~~ display vehicles for sale on the premises.

Edward Cannon, on behalf of Carvana, Lisa Gage representative from Carvana, and Tim O'Toole, property owner, were present to explain what Carvana is about and to urge the Board to support this bylaw change. Mr. Cannon explained that Carvana would be at tenant at 269 Dedham Street and would operate a hub on sight for on-line used car sales. All of the cars on site are already sold and are just being stored there temporarily waiting to be delivered to the end use. There will be no cars sold at this location.

Lisa Gage showed the Board a powerpoint presentation and gave the Board an overview of Carvana. Ms. Gage said Norfolk will be a delivery hub only and will not include the "Carvana vending machine" component and the cars are

already sold when they arrive in Norfolk and will remain at the site for a maximum of two days. She explained that there will be a maximum of 50 cars on the lot at one time and a 6-car hauler will transport the vehicles to the site.

Mr. McCarthy explained that car sales are already and allowed use at this locations and the bylaw amendment would allow for the storage and preparation of vehicles.

Mr. Cannon said that it is uncertain whether or not a site plan will need to be submitted for approval by the Planning Board.

*Michelle moved to recommend **APPROVAL** of Article 18. Gregg seconded the motion. The motion carried unanimously.*

Other Business

Walter thanked Michelle for her years of service as a Planning Board member.

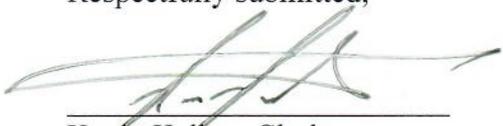
Next Meeting & Schedule

The next regular meeting was scheduled for Wednesday, May 23, 2018.

Adjournment

Walter moved to adjourn the meeting at 9:25 pm. Michelle seconded the motion. The motion carried unanimously.

Respectfully submitted,



Kevin Kalkut, Clerk