



Meeting Minutes for December 5, 2023, at 6:30 PM,

This meeting was held in person, in meeting room #4 at the Carver Town Hall

This meeting is being videotaped and rebroadcast by Area 58 TV.

Attendees: Johanna Leighton, Chair, Savery Moore, Vice Chair; Pat Meagher, Treasurer; James Elliman, Member; Roger Noblett, Member

Also in attendance: Tom Bott, Town Planner

Absent:

Meeting opened by Ms. Leighton at 6:32 PM

This meeting will be taken out of order at the Chair's discretion.

Discussion and possible vote(s):

- **Route 44 Filing of Subdivision Plan, Discussion with Tom Bott**

- Committee letter of approval was sent to Planning Board –
Ms. Leighton – As approved, I sent a letter to the Planning Board. I asked Tom to come in tonight to discuss the Planning Board acceptance.
- Discussion with Tom Bott –
Mr. Bott - Route 44 is currently undergoing a Subdivision Plan. Earlier this year they rescinded the Subdivision Plan, essentially erasing all the roadways and lot lines that had been previously created. Everything is now a clean slate. They have submitted a preliminary Subdivision Plan and now a Definitive Plan. The Definitive Plan hearing opened on the 28th. Your information was in there, as well as information from other Committees and Boards and information from the applicant. The meeting is continued tonight, to the 19th. There is a member who can't make it tonight so it is continued until the 19th. The Board has 90 days to review/approve it or request an extension by mutual consent, for more time. MGL states that the "Planning Board shall approve a Subdivision Plan"; it is not discretionary. As long as they meet all the requirements of your regulations, the Subdivision Plan will be approved by the Board. This is what the state law says.
- Planning Board acceptance and next steps -
Mr. Bott - At this point, we have had the opening hearing, our consulting engineer is reviewing the information, the Planning Board had a site visit this morning and we will be back discussing it on December 19th. Assuming it is all wrapped up by the first meeting in January, we may have a vote then. If they are still vetting those things, the typical procedure would be for either the applicant or the Planning Board to request an extension. It has been my experience, that most of the time, that extension is granted. What there is right now is one big piece of property with no lines on it. The plans are on the Planning Board website. Where there was such an interest, we also put all other documents we have received from the applicant, on the website.

Mr. Moore – Other than the 90 days that the Planning Board has to approve it, are there any other deadlines that were made/missed, particularly in regard to Zoning Bylaws that were approved at Town Meeting in 2022? Mr. Bott – In the case of Rte. 44 Development, they did file a Preliminary Plan, they did file the Definitive Plan within 7 months of filing the Preliminary Plan which keeps them in the game to get their plan approved and effectively grandfathering them from the zoning changes that took the height from 65’ back to 40’. They are effectively grandfathered for 8 years from the date of endorsement of the Planning Board subdivision decision. Ms. Leighton – So that is still at 65’? for 8 years? Mr. Bott – Yes. The 8 years begins on the date of endorsement. The Planning Board votes to approve a plan. If someone decides to appeal that, the Planning Board cannot endorse a plan while it is under an appeal. Effectively, that 8 years grandfathering they might receive could turn into 9 years if it takes a year to resolve the appeal. Everyone has a right to appeal but if your goal is to stop this, appealing it will just buy the applicant more time to grandfather the zoning and institute what they might institute. Everyone has the right to appeal but those are the implications if they do. Mr. Moore – What do they need to do in the 8 years, to keep that. Mr. Bott – They have to come in for an application. Right now, what is in front of the Planning Board is a Subdivision Plan. This is a road and lots. After the Subdivision Plan has been approved, the roadway has to be built and then inspected by the Board. When there is a bond in hand to make sure all the remaining issues are addressed, the Board can then vote to release the lots. When they vote to release the lots, then they can put something on that lot(s). Right now, we have empty lots, at some point after the Subdivision is approved, things will go into the empty lots.

Mr. Meagher – Once approved, are they bound to go by that? Do they have the ability to change it? Mr. Bott – A Subdivision has to be executed within two years, in Carver. If they don’t start their Subdivision Plan by that time, the Subdivision Plan is moot and they have to start all over again. They have to execute the permission they get by commencing construction or come before the Planning Board for an extension for a good cause. After a Subdivision Plan has been approved, yes, they can come in and amend the plan. While the Subdivision Plan shows four buildable lots, through the ANR process, someone can come in and reconfigure those lots. Mr. Elliman – What are the uses out there? Mr. Bott – The uses allowed are those uses listed in the Zoning By-Laws, under Green Business Park. There are no uses proposed at this point; they are simply creating the Subdivision Plan to make lots.

Ms. Leighton – You mentioned that the acceptance of the Subdivision Plan. What is the commitment for Rte. 44 to build a road? Mr. Bott – They have to execute their Subdivision approval within two years. Ms. Leighton – When we were going to have the other roadway, there were by-law changes. Mr. Moore – Some of the by-law changes were changing the language from exact width of 24’ to a minimum of 24’. Mr. Bott – Those were for driveways, not roads. Ms. Leighton – Okay but we already have a road going in there. Mr. Bott – You had a road going in. A road can be a paper street. In this case, it’s on paper and it’s paved. With the rescission of the Subdivision, there is still asphalt out there but it’s not a road as it has been wiped clean. No one has a right to build off of that road because it is not an approved Subdivision roadway. In order to build in Massachusetts, you have to have acreage and frontage on a Way (a road in existence prior to Subdivision, a public way or a road created by the Planning Board under Subdivision control. That asphalt that is out there right now is just asphalt right now. Mr. Moore – There is no Park Avenue.

Mr. Moore – So they come back on December 19? With Fuss and O’Neill? Mr. Bott – Yes, our engineer, Andy Glines was at the last meeting. We only had a week between last meeting and this one. Rather than the 12th and 26th, we changed it to the 5th and the 19th. Andy expects to have the review memo out by the end of the week.

- **Consultant for Hire – Discuss and vote, Applicant, Sharon Clarke**

- Ms. Leighton - Postponed due to an unforeseen situation. I received a letter from KPLaw who would like to meet with the Board due to Open Meeting Law charges from a resident so I will pull this from the agenda tonight.

Motion to continue the “Consultant for Hire Discussion” to our next meeting: Mr. Moore

Second: Mr. Noblett

Discussion: None

Approved: Unanimous (5-0)

- **Indian Street**, Email sent to Conservation, New home construction and watershed concerns

Ms. Leighton – This is a continuation from our Conversation at the September 5 meeting. Ms. Leighton read the discussion from the September 5 meeting from the posted and approved minutes.

Mr. Noblett – That piece of property, right next to it on Indian where the Buzzard's Bay Coalition is; the man that owns the property that has that section for sale has gutted up right up to the property line and has a big pile. I think steps moving forward is that he will take as much of that land as he has in the back, gut it out and put it up for sale and relocate it. You are starting to see erosion in the roadway. There is about a 10' grade. When you start carving out that much land, any water is now going to take the path of least resistance. How much more protected land is going to erode away that he can then cart away?

Mr. Moore – There are a couple of things in play here. Do you know the address? Mr. Noblett did not know the exact address but explained the area to the Board. The by-laws state that the property owner can't do anything within 100' of a wetland. If there is a wetland within 100' of where this person is clearing, without going before Conservation for permission to do so, then that person is in violation. There is also a 65' buffer zone where you need a variance. You would need to prove hardship in order to get a variance to do that. The only exception in that case would be if the land is in Chapter 61A, Agricultural land, in which case there are exemptions from those buffer zones. It all depends on how that property is registered in the Town. If it is Chapter 61A, they could clear right up to the property line. The Conservation Commission would prefer that the person would come and tell us about it as we get phone calls. Mr. Noblett – I left a voicemail for Gary Flaherty and haven't heard back. Mr. Moore – If it's in Chapter 61A, as long as the owner has filed it as a 61A and is receiving the tax break on that property then he/she can do what they want with that property. Mr. Noblett – Isn't that a contradiction from what the other land is used for? There is a bog on that property.

Mr. Moore – Sand in Carver is called Carver Gold for a reason. In order for someone to remove sand they would have to go before the Earth Removal Committee first. If there are no wetlands involved within the 100' or if it's a 61A, the property owner would have no reason to come before the Conservation Commission. Mr. Noblett – The bog on the property looks as though it has been dormant for a while. I just wanted to bring attention to this and make sure everyone is doing the right thing. Mr. Moore – 61A allows for a lot of leeway. I know a lot of properties on Indian Street have been sold. Once the property is sold, they lose the 61A status and gain back the 100' and 65' wetlands buffer. Conservation is meeting tomorrow night. We can discuss at that time. Can you get me the address? Ms. Leighton – Could you do a site visit? Mr. Moore – No, we would need to bring it before Conservation first. Mr. Noblett was able to show a picture to Mr. Moore that shows exactly where the property is. Mr. Moore – Are they pulling sand? Mr. Noblett – There is a pile but it hasn't been removed from the property. Mr. Moore – Conservation has site visits tomorrow; maybe Conservation Commission will be willing to drive by that location. Mr. Moore – A lot of the growers clear cut trees around their bogs. As the trees grow, they put shade on the edges of their bogs. There are years that we have frost before the harvest and the sun helps eliminate any kind of damage to the berries. I am not saying this is the case here but it is part of the reason that they do what they do. Ms. Leighton – Mr. Moore will put it on the agenda for Conservation Commission and try to visit the site. Mr. Noblett, can you attend the Conservation Meeting tomorrow night? Mr. Noblett – I should be able to do that.

- **Wade Street –**

- Next steps - Ms. Leighton – At the last meeting, we had not yet received an invoice from Mr. Borden. Savery, you were going to follow up. Mr. Moore – I have not spoken with him. I stopped by the other day and no one was there. Mr. Meagher – I have not received an invoice.

Public Records Request, from Mr. Belbin., filed with Selectboard for RDA draft minutes, for November 7 meeting:

Ms. Leighton – I received an email from KPLaw that we had an Open Meeting Law violation. This has become more of a dispute of what he read and what we said in our meeting. We have to think about doing another meeting. Mr. Corbo would like to meet with the Board next week. Can we meet on the 12th or the 13th? Mr. Meagher – Why does he want to meet with us? Ms. Leighton – Because it is very confusing. Mr. Meagher – What is really confusing is why this guy continues to harass committees. It's never about a significant issue. It's cost this town a lot of money. Mr. Moore – We do need to meet with Gregg. Ms. Leighton – We do. He needs to be able to write an opinion. Mr. Noblett – There needs to be some sort of area between the openness of being able to speak with each other. He is looking too specific. We only meet once per month. I keep hearing about "the corruption of the RDA". We are not corrupt! Mr. Moore – This is the only venue that we are allowed to discuss anything on our agenda. I think in this particular case, the punctuation in the minutes could be taken two ways. There were two thoughts that were combined into one sentence.

The video of the meeting backs that up. Mr. Meagher – This person just spends hours of time combing through this stuff. It's not just this committee it's all of them. The bottom line is that as in this committee and all other committees, we are just a bunch of people who want to do what is in the best interest of Carver and its residents. There has never been intention of circumventing any laws or anything else. Anything that might be an honest mistake is corrected. He is relentless; this is harassment. Mr. Moore – There have been numerous complaints filed by this gentleman about us, yet he has not been to one of meetings. He wants to try everything in the public court of Social Media as opposed to coming to us directly. Mr. Noblett – He is tarnishing his integrity; if you have a challenge, you come and discuss it. We meet once a month for about an hour. Mr. Moore – We made it very clear in that meeting that what we were doing was accepting a resume and nothing more. I think his Open Meeting Law violation request is meritless. Mr. Meagher – Everyone he does is meritless.

Ms. Leighton – What is your availability next week to meet with Gregg? We will have a meeting next Wednesday the 13th, with Gregg Corbo. Mr. Belbin is welcome to join us for discussion.

New Town Administrator Search Committee:

Ms. Leighton – Mr. Fennessey has given his notice and will be leaving us. On the website, there is a Public Hearing Notice for Town Administrator Screening Committee. If anyone is interested, please look into that. Mr. Meagher – I am in already.

Treasurers Report:

Mr. Meagher -

Account balances as of October 31, 2023

Checking	\$ 553.99 (two outstanding checks)
URP	\$ 1,280.47
Money Market	\$ 59,155.58
Hillwood	\$ 0.00

Motion to accept the Treasurers Report, as presented: Mr. Noblett

Second: Mr. Moore

Approved: Unanimous (5-0)

Topics not anticipated by the Chair 48 hours in advance of the meeting

Nothing tonight

Members Notes:

Mr. Moore –

Mr. Meagher –

Mr. Noblett –

Mr. Elliman – I have completed my ethics training.

Ms. Leighton – I have handouts from the KPLaw session that I attended. These are like cliff notes on Executive Session and Public Records Law.

Minutes – November 7, 2023

Motion to continue the approval of the minutes of November 7, 2023, until after our meeting with Mr. Corbo on 12/13/23: Mr. Moore

Second: Mr. Meagher

Discussion:

Approved: Unanimous (5-0)

Next Meeting:

Our next meeting will be held on January 9, 2023 at 6:30 PM.

Adjournment:

Motion to adjourn at 7:28 PM: Mr. Moore

Second: Mr. Noblett

Approved: Unanimous (5-0)