



Meeting Minutes for May 16, 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: Sharon Clarke, Chairman; Savery Moore, Vice Chairman; Patrick Meagher, Treasurer; Johanna Leighton, Member; Roger Noblett, Member

Also in attendance: Tom Bott, Town Planner

Absent:

Meeting opened by Ms. Clarke at 6:40 PM

Reorganization of the Board:

Ms. Clarke - I will defer to Mr. Moore to begin the election of the Chair

Mr. Moore – I will now entertain nominations for Chair

Motion to nominate Sharon Clarke as the Chairperson of the Carver Redevelopment Authority: Ms. Leighton

Second: Mr. Noblett

Discussion: Mr. Moore – Any other nominations? None heard

Approved: Roll Call Vote performed (4-0-1, Sharon Clarke)

Ms. Clarke took over meeting.

Ms. Clarke – I will now entertain nominations for Vice Chair –

Motion to nominate Savery Moore as the Vice Chairperson of the Carver Redevelopment Authority: Ms. Leighton

Second: Mr. Noblett

Discussion: Ms. Clarke – Are there any other nominations for Vice Chair? None heard

Approved: Roll Call Vote performed (4-0-1, Savery Moore)

Ms. Clarke – I will now entertain nominations for Treasurer –

*Motion to nominate Pat Meagher as the Treasurer for the Carver Redevelopment Authority: Ms. Leighton
Second: Mr. Moore*

Discussion: Ms. Clarke – Are there any other nominations for Treasurer? None heard

Approved: Roll Call Vote performed (4-0-1, Mr. Meagher)

Discussion and possible vote(s):

- Rte. 44 Project update -

Ms. Clarke – It has been quiet. They are going before the Planning Board for their Preliminary Subdivision Plan. Mr. Bott is here this evening to provide an update and answer any questions.

Mr. Bott – I want to divorce the project from the subdivision. The Route 44 Project is a project; What's in front of the Planning Board right now are subdivisions which are not projects. A project that is like what Hillwood proposed, require special permits and special permits are discretionary. This Preliminary Subdivision is not discretionary as it is a subdivision plan. Read MGL Chapter 41, section 81M says,

"It is the intent of the subdivision control law that any subdivision filed with the Planning Board shall receive approval of such Board, if the plan conforms to the recommendations of the Board of Health and the reasonable rules and regulations of the Planning Board pertaining to the subdivision of land."

Mr. Bott - What is in front of the Planning Board is not a project; Rte. 44 Development is looking to reconfigure the land. There is a plan to rescind the old subdivision and essentially wipe the slate clean. It is not discretionary; MGL says that the Planning Board shall approve plans that comports with their rules and regulations and the recommendations of the Board of Health. The Board of Health would look at things like soil suitability. It must meet the requirements of the Board of Health and the regulations of the Planning Board and they don't ask for any waivers. The first thing that Rte. 44 Development must do is rescind the old plan. Under MGL, if it is an Industrial Subdivision Plan (or a Non-Residential Subdivision Plan) they must file a Preliminary Plan and then they are required to file a Definitive Plan to rescind the original plan .

They are proposing a new 3 lot subdivision; Lot 1 is 1.184 acres, Lot 2 is 4.21 acres, Lot 3 is 220.27 acres. The printed plan was displayed for the Board Members. It is just three boxes, with the creation of a roadway. They have filed the Preliminary Plan for the rescission and now a second Preliminary Plan to create the new subdivision. I did suggest that they finish the second half and file the Definitive Plan to rescind the subdivision. This will make it clearer as to how the process is going forward.

Mr. Meagher – What is the rationale for two tiny lots and one huge one? Mr. Bott – I am not the developer. As a developer, they would probably sell the smaller lots to essentially fund the project. The predevelopment agreement went away; they are clearing the slate and putting in a new roadway and creating these three lots; two, I am speculating are being sold off to fund some future development. The remaining 220 acres has plenty of frontage on Montello and the new roadway. There is a lot of ability to shape whatever is going to be on those 220 acres. Mr. Meagher – Does this have anything to do with keeping the 65' height grandfathered in? Mr. Bott – They did file a Preliminary Plan prior to Town Meeting. Under MGL, if you file a preliminary plan prior to Town Meeting, you are likely to be grandfathered if the plan is approved. As already discussed, approving a Subdivision Plan is not discretionary. The Planning Board shall approve the plan. By filing that plan beforehand, the property would be grandfathered for eight years from date of plan endorsement. If they file the Definitive Plan within 7 months of filing the Preliminary Plan, they will keep that chain of custody. Abutters could appeal.

Mr. Meagher – You said there are differences between a Subdivision Plan and an Industrial Plan. How is the Subdivision Plan able to grandfather the Industrial determination of the height? Mr. Bott – They are both Subdivision Plans. A Non-Residential Plan requires the filing of a Preliminary Plan and Definitive Plan. Mr. Meagher – So this is not a Residential Plan.

Ms. Leighton – “Rescind” - The Planning Board (Connie Shea) wanted to know if the URP was rescinded. The developer lost development rights. The RDA, DHCD and MEPA were all involved. The attorney that was there mentioned asking the state his questions. How come George McLaughlin didn’t come and lead us into this new path he is taking? Sharon has already written to Maggie at DHCD; she quoted major/minor changes and recommended contacting our counsel. (letter attached). We had this plan and now it looks like it’s thrown away. Mr. Bott -We are divorcing a project from a Subdivision Plan. What is before the Planning Board is lots and road, a Subdivision Plan. The URP is a project that requires discretionary permits from the Planning Board. At some point, if someone wants to build a project comparable to the URP, on those 220 acres, we will be back to the URP. Right now, there is no relationship between the URP and this Subdivision Plan. In my opinion, the URP will sit just exactly where it is, until someone comes forward with a plan for those 220 acres. Right now, it’s just a Subdivision Plan; the road, the drainage, pipes and the lots. Ms. Leighton – During the Planning Board Meeting, John Gaskey was concerned about the water; maybe there is no water available to them. Mr. Bott – That would be for a project, which we no longer have. There is no requirement in a Subdivision Plan to have water there, it is only required that they have the infrastructure to get it there. Ms. Leighton – At our last meeting, Mr. Moore discussed the PFAS issue on the property. There are two areas that need to be isolated and the third is draining under the waterway and not much can be done. That was not talked about at that meeting. Mr. Bott -In the EIR it talks about that. Everything would have to be cleaned up depending on the use. That is for a project, this is not a project. This is a Subdivision Plan which is roads, drainage, pipes and lots. Ms. Clarke – A project would have names, plans, structures to evaluate. This is just subdividing the land. As far as we know, it is not opening the door to a project.

Mr. Noblett – Anything that would have to be done to the soil for the two smaller lots would have to be handled by owner? Mr. Bott – Yes. The only potential for creating housing on this site is a Planned Neighborhood Development. That is the only zoning permitted in a Green Business Park. There will be no individual homes there. Mr. Noblett – At any point can the Industrial Use Only 220-acre lot be converted over to Residential? Mr. Bott – If someone wants to take it to Town Meeting. Mr. Noblett – Has any work been done that the Town has to pay for? Mr. Bott - The only work that has been done for that area was the reconfiguration of Montello Street which was funded by a Mass Works Grant. Mr. Noblett – Was that grant tied to the project? Ms. Clarke – It was tied to the property. Mr. Moore – The state gave us \$3.2 Million and the developer of the property put in \$800K of his own money. Mr. Noblett – So we owe someone money? Ms. Clarke – No we don’t. The amount contributed by the owner was his expense alone. Mr. Noblett – Was this land being taxed? Can we still collect those Property taxes? Mr. Bott – Yes, There are taxes still being paid on the vacant property.

Mr. Moore – At last week’s Planning Board meeting, they asked a lot of questions as if they had an opportunity to say no, which they don’t. When is the developer coming back? Mr. Bott – They will be back for the second Planning Board meeting in June, which is June 13, 2023. Mr. Moore - They did the Preliminary Subdivision on time; if they file the Definitive Plan within 7month of the Preliminary Subdivision Plan and the plan looks like you presented tonight; can they come back and present a new plan, splitting up the big lot? Mr. Bott – They can but there are limits on how long a cul-de-sac can be. If you want to create more lots off of more frontage, you could create additional lots on the right side of that street by carving off another smaller lot. There is sufficient frontage on Montello Street for that entire 220 acres. They will have frontage on Montello Street and they will have frontage on the new subdivision street they are creating. Mr. Moore – If they have to go that route (selling smaller parcels); does the height limit revert back? Mr. Bott – A new plan would not change that; it runs with the land. Mr. Moore – So they can do multiple Definitive Plans after they submitted the original Preliminary Plan? Mr. Bott – Yes. This Board and the Planning Board have asked great questions. This is a something that takes some time to understand.

Ms. Leighton - Sharon, do you want to talk about your letter to Maggie? Ms. Clarke – Some of the members of the Planning Board wanted clarification on the difference between and major and minor modification. As I read it, the Subdivision Plan is not a major modification. Mr. Bott – Correct, it is not a project. Ms. Leighton – We started with a project that included DHCD and MEPA. The focus was a warehouse distribution facility. We don’t have that now; we don’t have a project; is the URP negated? Mr. Bott –

No, we are just waiting for the next thing to come along. The URP is a project. This is not a project and is not discretionary. At some point in the future, someone will show up. Then it is a project. If it's on one of the smaller lots, it's not a MEPA, if it's on the 220-acre lot than it is probably a MEPA. At that point, we can look to see if we are making changes to the URP. Ms. Leighton – So if the two small lots bring in Industrial warehouse/manufacturing, with a lot of traffic, where are we going with our URP which included MEPA, etc.? Mr. Bott – I am pretty sure that the URP talked about 3000 trips per day and 50 + acres. That is none of these things on those little lots. They are too small for MEPA.

Mr. Moore – The Subdivision Plan that they are rescinding, how far did they go? Mr. Bott – It wipes out all of the lots down to one lot on the recission plan.

Mr. Noblett – Does the roadway go in prior to someone showing interest? Mr. Bott – The plan is on paper but they have to provide access. It is their money and we inspect their work. After the roadway is in, they come back before the Planning Board to make a request to release specific lots. We hold a bond to make sure they complete the subdivision. Mr. Noblett – So to be clear, no money is being spent by the Town for any of this? Mr. Bott – None. In Massachusetts, the developer has to pay for all of that and we get to use their money under 53G.

- Wade Street –

Ms. Clarke – I haven't heard back from them. Mr. Moore – Conservation is doing a site visit tomorrow (5/17). The time would be difficult to pin down as we are visiting multiple site visits tomorrow. This is for Conservation Committee Members to view the site. Mr. Moore – We can plan on doing our own. Ms. Clarke – I will see how things are going with organizing the move of the building. Mr. Noblett – Is anything in writing yet? Ms. Clarke – Not yet. Mr. Moore – We will need something from the. We will need assurances that everything we have asked them to do will be taken care of. Ms. Clarke – We will also need to reach out to Kathleen and have her start drawing up the paperwork. Mr. Moore – Anyone can come tomorrow but we can also do our own site walk. I will text you when we are on our way to that location.

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

Nothing tonight

Members Notes:

- Sharon Clarke –
- Savery Moore –
- Pat Meagher -
- Roger Noblett –
- Johanna Leighton –

Minutes – 4/18/23:

*Motion to accept the minutes for 4/18/23, as written: Mr. Moore
Second: Ms. Leighton*

Discussion:

Approved: 4-0-1, Mr. Meagher

Next Meeting:

Next Meeting will be held on June 20, 2023 at 6:30 PM.

Adjournment:

Motion to adjourn at 7:42 PM : Mr. Moore

Second: Mr. Meagher

Approved: Unanimous (5-0)

Exhibit A:

Letter from Maggie Schmitt, Department of Housing & Community Development

DHCD would look for a request for a major or minor plan change to provide information in accordance with the regulations at 760 CMR 12.03. See [760 CMR 12.00](#). A few excerpts below:

760 CMR 12.03 (1) A minor plan change is a plan change that does not significantly affect any of the basic elements (acquisitions, characteristics, objectives, public improvements, redeveloper's obligations or disposition) of a previously approved Urban Renewal Plan as described in 760 CMR 12.02(2), (4), (5), (8), (9) and (10)...

760 CMR 12.03 (2) A major plan change is a significant change in any of the basic elements (acquisitions, characteristics, objectives, public improvements, redeveloper's obligations or disposition) of a previously approved Urban Renewal Plan, as described in 760 CMR 12.02(2), (4), (5), (8), (9) and (10). For example, major plan changes shall include, changing the boundaries of the plan area, changing the allowable uses within the plan area, and changing the designation of parcels from "not to be acquired" to "to be acquired"...

I'd refer you to your legal counsel or maybe the Town's legal counsel or the Town Planner regarding questions about preliminary & definitive subdivision plans and the governing laws and regulations.

Sincerely,

Maggie

Maggie Schmitt AICP, LEED AP BD+C

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