

Minutes of the Town of Lee Planning Board
February 14, 2022
6:00pm Via Zoom

A regular meeting of the Lee Planning board was held virtually in accordance with Governor Baker's Order suspending certain provisions of the Open Meeting Law (MGL Chapter 30A, Section 20) on Monday, February 14, 2022 at 6:00pm on Zoom.

Present: Buck Donovan (Chair), Peg Biron, Matt Carlino, David Forrest, Gordon Bailey (alternate) and Peter Bluhm.

Others Present: Kathy Hall, Chris McCarthy, Harry Kastrinakis, Bryan Connolly, Claire Lahey, Edward Lahey, Joshua Bloom, Kathy Daoust & Bob Jones.

Call to Order

Chairperson Donovan called the meeting to order at 6:00 p.m. For the record he informed those in attendance that the meeting was being recorded.

Public Hearing (cont.) – Zoning Bylaws

Chairperson Donovan reopened public hearing on the zoning bylaw amendments. Chairperson Donovan stated that he and Member Bluhm attended the Agricultural Commission's meeting. He discussed possibly changing section D from special permit to site plan review.

Member Bluhm stated there was a lengthy discussion regarding roosters and the regulation of them.

Member Carlino concerned with protection to the abutters.

Chairperson Donovan stated the Board could still put out conditions and spell out how it would operate.

Member Bluhm stated for the Board to disapprove a site plan the reviewing court would have to be convinced that there were no conditions that would make the application feasible.

Member Forrest stated agreement with keeping the fees as low as possible for the members of the community.

Resident Hall stated concerns with protecting herself and her yard from chickens and roosters coming onto her property.

Member Bluhm explained the automatic as of right use of chickens does not include roosters. If application for site plan review comes before the Board, they would send notice to abutters so they would get a chance to be heard at the meeting.

Member Bluhm stated he would rewrite that particular section of the proposal.

Resident Bloom suggested moving question seven to be part of other sign bylaw amendments the Board will be working on so that they could all be grouped together.

Resident Bloom stated concerns with question seven which shifts more authority for sign permitting from elected officials to the Building Commissioner. He stated there has been little effort made to prevent abuses of power to ensure greater oversight of the Building Commissioner position, or accountability when town officials violate town bylaws.

Member Carlino stated Planning Board didn't want to handle the sign permitting process because it holds the applicant up for weeks. The Building Department can make a quick decision for

people who are applying for sign permits and they already make every other enforcement in town.

Chairperson Donovan stated all other municipalities go through the Building Commissioner so the Board is following suit.

Alternate Member Bailey stated it better delineates the process by which any actions can be taken. The fact that the Zoning Enforcement Officer can issue the sign permits without the immediate oversight and concurrence with the Planning Board is a good thing for the applicants. There is always the right to appeal the Zoning Enforcement Officer's decision to issue or not issue a sign permit that could go before the Zoning Board of Appeals.

Resident Bloom stated he asked the ZBA to address the bylaw infractions of the Building Commissioner and was told they did not have the authority to do so.

Alternate Member Gordon stated he would reach out to Resident Bloom to further discuss the matter.

Member Bluhm stated the primary reason the Board supports the proposal is that the Board reviews a proposed sign permit for the questions of how large is the sign, does it compare with the allowed size, how far back is the sign and is the sign illuminated properly. He stated those are very similar to the decisions the Building Commissioner routinely makes on the building code and the zoning code.

Member Biron stated the importance of working together as team.

Member Bluhm moved to continue the Public Hearing to February 28, 2022 at 6:00 pm; Member Carlino seconded. Planning Board voted (5-0). (Bluhm – aye; Biron – aye; Carlino – aye; Forrest – aye; Donovan – aye).

Discussion – Erskine Drive

Chairperson Donovan stated the Board reached out to the builder and the engineer and have not heard back from either. It does appear that there are water and sewer lines but no electric.

Member Bluhm stated when the town approved the subdivision, the town thought it was protecting future lot buyers from a number of risks. Those risks included the failure to provide utilities, the failure to provide landscaping and the failure to provide a final topcoat on the road. Member Bluhm stated one of this subdivision was released from the covenant after receiving a letter from an engineer who said that the utilities on the lots had been installed.

Resident McCarthy stated he has been trying to work with the former owner of the project, the attorney representing the project and the engineer. He stated they were told at the sale electrical service was at the curb and found out after the sale that it was not.

Resident Kastrinakis stated the legal aspect of it is troublesome to him regarding notarized and recorded documents that are inaccurate.

Member Bluhm stated that the only power the Board holds at this point is to grant or withhold a release of the covenant. Any withholding of release now would further burden the owners.

Resident Connolly requested the Board send a letter to the engineer and the developer asking why the project has been delayed.

Member Bluhm moved that the Chairperson and Administrative Assistant draft a formal letter requesting attendance at the next meeting; Member Forrest seconded. Planning Board voted (5-0). (Bluhm – aye; Biron – aye; Carlino – aye; Forrest – aye; Donovan – aye).

Resident Connolly questioned what does the town of Lee do when developers and their engineers submit documents with falsehoods to the Planning Board?

Alternate Member Bailey stated the proper procedure would be to file a complaint with the Division of Occupational Licensure but only after receiving an explanation from the company.

Discussion – Eagle Mill Development

Chairperson Donovan stated there are fences up and there is a General Contractor. They are dealing with some delays but still plan to work on it.

Member Bluhm moved that the Chairperson and Administrative Assistant draft a formal letter requesting an update on the financing of the project and the construction schedule; Member Carlino seconded. Planning Board voted (5-0). (Bluhm – aye; Biron – aye; Carlino – aye; Forrest – aye; Donovan – aye).

Discussion – Town Master Plan

Chairperson Donovan stated the Board reached out to Town Administrator for an update regarding the Town Master Plan.

Administrative Assistant stated that the town has applied for a grant to cover additional costs in the amount of \$25,000.00 and they are waiting for a response.

The Board briefly discussed the process and funding of the Master Plan.

Discussion – Sign Bylaws

Chairperson Donovan discussed what part of the sign bylaws the Board should start with.

Member Biron stated she would like the Board to focus on the political sign bylaw first.

Member Carlino stated he would like to work on all of the sign bylaws but agreed that the Board should start with political sign bylaw.

Member Bluhm stated the simplest thing would be to just say political or ideological signs are exempt from the bylaws but some reasonable restrictions are needed. He stated he tried to avoid having a classification system that is based on content and if you want to have a political sign, it will be subject to some regulations about size and place.

Member Bluhm stated his proposal is that a political or ideological sign should be allowed without a permit, up to a certain size on anybody's front lawn or side lawn. Further, if they want a bigger sign, they would get a permit that would be subject to the size limits that a commercial sign would be subjected to in that zone.

Member Biron stated concern with enforcement section of the bylaw.

Member Bluhm stated he tried to narrow down the actions that the Enforcement Officer can take to real emergencies, or to cases where notice is given. The problem last summer was that there was no notice given before collecting the signs.

Member Forrest stated the Board needs to define what is the right of way. The Board should consider signage that is along the edge of the road and if it would distract the driving public.

Chairperson Donovan stated there is a section of the bylaw regarding emergency removal.

Alternate Member Bailey stated the Board should disregard anything about the general statement of government and stick with town owned property. He stated if there was an emergency issue with a sign on state owned property a complaint would have to be filed with the DOT in Lenox.

Alternate Member Bailey stated any sign political, non-political, can be allowed on town property without the approval of the Select Board.

Member Carlino stated the bylaw should allow signs in the right of way unless there is an emergency removal requirement.

Member Bluhm stated he would redraft and send around to the Board.

Member Bluhm stated he would send draft proposal to the Town Counsel and the ACLU for their opinion.

Member Bluhm stated that the draft eliminates the distinction between permanent signs and temporary signs which is a big change.

Chairperson Donovan stated in section J a political sign is any sign with an opinion not just a campaign sign.

Chairperson Donovan suggested eliminating the limit of signs on a property.

Resident Bloom stated he believed it is not permissible to limit the number of signs.

Member Carlino suggested change the size limit to six square feet.

The Board briefly discussed how many signs should be allowed and seeking opinion of Town Counsel.

Member Bluhm shared on screen the draft proposal being discussed for the Board to recap.

Approval of Minutes – January 10, 2022

Member Biron moved to accept the minutes as presented; Member Carlino seconded. Planning Board voted (5-0). (Bluhm – aye; Biron – aye; Carlino – aye; Forrest – aye; Donovan – aye).

Member Bluhm moved to adjourn meeting; Member Carlino seconded. Planning Board voted (5-0) Chairperson Donovan declared the meeting adjourned at 9:08 pm.

Respectfully Submitted,

Elizabeth Mead
Administrative Assistant