

Agawam Planning Board –May 18, 2023

MEMBERS PRESENT:

Mark R. Paleologopoulos, Chairman
Frank DeStefano
Violet Baldwin
Charles Elfman
Michael DiLullo

MEMBERS ABSENT:

ALSO PRESENT:

Stefanie Kesecker
Pam Kerr
Taryn Egerton

Chairperson Paleologopoulos called the meeting to order at 6:00 pm.

Motion was made by Ms. Baldwin and seconded by Mr. DeStefano to the agenda items out of order.

VOTE 5-0-0

2. APPROVAL OF MINUTES-May 4, 2023

Motion was made by Mr. DeStefano and seconded by Ms. Baldwin to approve the minutes of May 4, 2023.

VOTE 3-0-2 (Elfman/DiLullo)

3. Correspondences

Ms. Kerr informed the Board she had forwarded an email to the Board from the Pioneer Valley Planning Commission and there will be a regional expert giving a webinar on §40R, which is a smart growth district, on June 12th, for any members that are interested.

Ms. Kerr informed the Board that the new Site Plan for the Agawam Police Department would be coming before the Board soon.

Ms. Kerr stated the new condominium project on South Westfield Street would also be coming before the Board in an upcoming meeting. She stated that will be on the Team Meeting agenda for May 23, 2023.

Motion was made by Mr. Elfman and seconded by Mr. DiLullo to put the agenda items back in order.

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VOTE 5-0-0

1. PUBLIC HEARING CONT.-Definitive Plan-Aspenwood Estates-Aspenwood Associates LLC.

Mr. DiLullo recused himself at 6:07pm.

Kirk MacNaughton with Aspenwood Associates LLC was present for this agenda item. He stated the latest Definitive Plan was dated December 2, 2022, and Ms. Egerton displayed this on the projector screen for the Board and members of the public. Mr. Paleologopoulos stated there are still Engineering comments that have to be resolved. Mr. Paleologopoulos stated the sight distance study and traffic study have not been completed. He went on to say the Engineering Department had agreed to a sight distance of 60mph. Mr. MacNaughton stated they 100% meet the sight distance requirements, and the view line that goes over a small portion of the neighbor's property. He questioned whether an easement is needed. Mr. MacNaughton stated there is no obstruction of the sight line. He stated at the closest point the property line it is 4ft. wide. He stated the sight line to the north is 665 ft. which is the required distance for the agreed 60mph traffic speed. Mr. Paleologopoulos then read a correspondence from Michelle Chase in Engineering dated January 31, 2022, "It is Engineering position that in order to meet the sight distance requirement the line of sight travels through the abutters' parcel, a sight distance easement is required." Ms. Kerr stated the easement was required to prevent any obstruction in this area, because it crosses over the abutters' property. Mr. Paleologopoulos then read an Engineering memo dated November 30, 2022, "this includes but is not limited to adding the following note to sheets 2 and 5, the sight distance easement shall be cleared prior to starting construction, and if after clearing the sight distance does not meet the minimum standards as calculated, the developer shall perform all the necessary clearing and sight distance easement acquisitions prior to the start of work on the subdivision." Mr. MacNaughton stated in paragraph 5 in the same memo it stated prior projects have required sight distance easements where there are sight distance issues. He stated in an email he submitted January 26, 2022 he made the argument that sight distance easement was not necessary and the reason is the Town ordinance allows the Town the power to control the area, he referred to §159-8. Mr. MacNaughton stated the purview lives with the Board to make the decision about obstructions on property. He stated he had reached out to Engineering who deferred to the Town Solicitor, Steve Buoniconti, he stated he was informed the Solicitor does not get involved unless it involves a legal matter. Mr. MacNaughton went on to read the Town Code §159-8(1) "all streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel and discharge nonterminal traffic and excessive speed." Mr. MacNaughton stated the abutter whom he needs an easement from is opposed to the project and he feels it's an unfair condition being imposed upon him to get the sight distance easement. He stated the Town has the ability to have the abutter take down obstructions. He went on to say the Solicitor had sent him an email that stated "all departments have been advised to treat this application in a consistent manner with other subdivision applications so that all parties can see the Town as strictly following the Town code and any relevant state statues." Mr. MacNaughton stated this easement area can be controlled by the Town. Mr. Paleologopoulos stated it was not the Boards' responsibility to have the owner grant an easement. Mr. MacNaughton requested from the Planning Department to look at the last 10 subdivision files. The Planning Department provided Mr. MacNaughton with

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17 subdivision files to review, and Mr. MacNaughton looked at 9 of those files. Mr. MacNaughton stated he looked at Shepard Estates-Cooper Street, and he did not see any sight line easement requirements or a sight line study in the Town notes or Engineering comments. Ms. Kerr informed him the easement was provided by the applicant. Mr. MacNaughton stated he felt his project had better view from north, than this location that intersects at 90 degrees and the traffic is similar. Mr. MacNaughton then talked about Lango Estates on Rowley Street. Mr. MacNaughton said two easements were given, one by a neighbor and one by the owner and they were needed for grading and not the sight line. Ms. Kerr stated that is because the applicant had provided a sight distance study in the Definitive Plan. Ms. Kerr asked Mr. MacNaughton if he had found sight distance easements on the plans he had reviewed. He responded on Lango, there was no request for a traffic study, but there was a sight line easement granted. Ms. Kerr stated all these projects provided easement at the Towns' requests, and had professional engineers design their plans and meet with the Engineering Department and agreed that a sight distance easement was needed. Mr. DeStefano stated the sight distance could be obstructed by future development in this area. Mr. DeStefano said the Town is saying if you have this easement, then nothing can disturb the sight line. Mr. DeStefano stated every plan is different and if there is a clear view the sight distance may not be asked for, but it is dependent upon each plan presented to the Town. Mr. Paleologopoulos stated as Town Engineer Michelle Chase had stated every project with sight distance issues this has been required. Ms. Kerr stated that this was pointed out at the Preliminary Plan stage and it was a condition of approval. Ms. Baldwin stated the granting of an easement is up to the owner of the property, and if the individual is not willing to grant an easement the Town will not broker for anyone. She went on to say as far as being treated fairly this Board has served many people, including Mr. MacNaughton, given their time and thought to what has been presented, and there is no bias. She stated the Board members are volunteers who rely on professional comments and legal comments that direct their decisions. She stated this case has not been simple and there have been over 59 extensions and continuances with this plan since 2018. She stated the Board has been working and providing Mr. MacNaughton with the time to do the things requested for several years and the Board has been discussing the sight distance and it has not been resolved. Mr. Paleologopoulos stated the Board is giving Mr. MacNaughton the option to withdraw the plan without prejudice, resolve the issues, and submit the plan again once the necessary work has been completed. Mr. Paleologopoulos stated the Board has been holding hearings on this plan since March 3, 2020 and have given extension after extension and the Engineering requirements have still not been met and this is setting a bad precedent. Mr. DeStefano brought up the time gaps with information and the periods of extensions and continuances and he stated a sight distance requirements need to be met. Mr. Paleologopoulos stated the sight distance requirement, issues with the rolling pavement concerning the drainage on Doane Ave, and the Building Inspectors' required frontage on the new street and the connector street all need to be completed. Ms. Kerr informed Mr. MacNaughton the sight distance was a public safety issue, it was not aesthetics. Ms. Baldwin stated it was up to the owner, as to whether he wanted to grant the easement.

Mr. Paleologopoulos opened the meeting to the public.

James Consolini, 101 Doane Ave stated the first time Mr. MacNaughton had approached the Town Council was in 2008 when he tried to get the property all in Residential A-1, and again in 2018. Mr. Paleologopoulos stated this Definitive Plan in question was from 2018. Mr. Consolini

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also questioned the frontage for the Desrosiers' property, and if it would be Residential A, and what zoning restrictions would be placed upon it.

Dan Riebling, 111 Doane Ave asked if the 4ft. needed for the sight distance was outside the right of way. Mr. Paleologopoulos stated that it was not the tree belt, but inside the sidewalk.

Ruth Cosimini, 102 Doane Ave asked why the Town had to correct Mr. MacNaughtons' mistakes. She also questioned whether Mr. MacNaughton had actually purchased the land yet. She stated the Town has been dealing with Mr. MacNaughton for around 15 years and wondered about the cost.

Lisa Patnode, 40 Doane Ave read the comments from Engineering, dated April 20, 2023, page 2c, iv, v, vi.: "The sight distance easements and plan must be properly recorded on behalf of the Town of Agawam with the Hampden County Registry of Deeds prior to the beginning of construction." She asked if this had been done. Ms. Kerr responded Mr. MacNaughton had not gotten the easement. She then read "v. The sight distance easement areas must be cleared prior to beginning any construction." She stated it would seem that the biggest issue is the sight distance easement and this has been discussed for the past 3 to 4 years she has been coming to this public hearing. She questioned how much more time the Board was willing to give Mr. MacNaughton to get the easement. Mr. Paleologopoulos stated these were valid questions. She stated he has had numerous continuances. She stated the sight distance easement is key to her as she walks and runs this road frequently and no one goes 40mph, and that a lot of tractor trailers and cars drive fast. She stated the curve on Silver Street is the reason the sight distance is needed so cars can safely exit onto the street. She also questions the 300 ft. requirements and she thinks it should say exactly, but not as it appears. She questioned the separation between streets if it doesn't meet the 300 ft. Mr. Paleologopoulos stated it would have to say 300 ft. on the plan prior to the Boards' approval.

Ms. Kesecker read into the minutes that Ronald Cabana 14 Doane Ave was unable to make the meeting, but had called to express his concerns about the proposed new road and the closeness to Doane Ave.

Mr. MacNaughton asked the Board for another two week continuance, so he could speak to his partners and get their guidance on how to proceed. Mr. Paleologopoulos asked why Mr. MacNaughton had not spoken to his partners, prior to this meeting. Ms. Baldwin stated Mr. MacNaughton had been the only member of his team to be present at the Public Hearings and she was not inclined to give a motion to extend this another two weeks, and that he had the decision to withdraw without prejudice.

Motion as made by Mr. Elfman and seconded by Mr. DeStefano to close the PUBLIC HEARING CONT.-Definitive Plan-673 Silver Street-Aspenwood Estates-Aspenwood Associates LLC.

VOTE 4-0-0

Mr. Paleologopoulos extended the offer for Mr. MacNaughton to withdraw, once again.

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Motion was made by Ms. Baldwin and seconded by Mr. DeStefano to deny the Definitive Plan-673 Silver Street-Aspenwood Estates, based upon the outstanding issue of the sight distance easement not being provided, the number of continuances and extensions granted since 2020 without a great deal of progress, the plan changes necessary have not been resolved or moved forward in any considerable way, and all the professional staff comments received over the last years.

At this time Mr. McNaughton stated he would like to request to withdraw, without prejudice, the application for the Definitive Plan. He then provided the Board with a written request.

Ms. Baldwin made motion seconded by Mr. DeSefano to rescind the motion to deny the Definitive Plan-673 Silver Street-Aspenwood Estates.

VOTE 4-0-0

Motion was made by Mr. DeStefano and seconded by Mr. Elfman to accept the request to withdraw, without prejudice, the application for the Definitive Plan-673 Siler Street-Aspenwood Estates.

VOTE 4-0-0

Mr. DiLullo rejoined the meeting at 7:40pm.

Motion was made by Ms. Baldwin and seconded by Mr. DeStefano to adjourn the meeting.

VOTE 5-0-0

Meeting adjourned at 7:37pm.