

Meeting Minutes
Planning Board
Wednesday, June 5, 2019
Newbury Municipal Offices

APPROVED

Members Present: Rachel McManus, Chair; Peter Paicos; Leslie Matthews; George Morse; Martha Leahy (Associate Member)
Members Absent: Larry Murphy
Staff Present: Martha Taylor, Town Planner

Rachel McManus, Chair, called the meeting to order at 7:02 p.m. She then introduced the newest member of the Planning Board, Leslie Matthews, and welcomed her to the Board.

A. Felice Bonfa, Walk My Paws, LLC – Submission of Special Permit Application for “Animal Daycare – daytime only” (dog training and dog playcare), 90 Newburyport Turnpike, Map R36, Lot 19; Property Owner: 86 Newburyport Turnpike Realty Trust, Anthony Barbiris, Trustee; Business Owner/Applicant: Felice Bonfa:

Felice Bonfa, Walk My Paws, LLC came before the Board to submit his Special Permit Application for a proposed dog training and dog daycare facility at 90 Newburyport Turnpike. F. Bonfa gave a brief overview of his application. He is renting the space at 90 Newburyport Turnpike and he is going to be having dog playcare sessions. He will pick up five to seven dogs and bring them to the space to play and be trained for one to two hours and then bring them home. There will be three or four small groups a day. F. Bonfa started off as a dog walker and is now hoping to expand.

Motion: A motion was made by P. Paicos and seconded by L. Matthews to accept the application for Walk My Paws, LLC – Submission of Special Permit Application for “Animal Daycare – daytime only” (dog training and dog playcare), 90 Newburyport Turnpike, Map R36, Lot 19; Property Owner: 86 Newburyport Turnpike Realty Trust, Anthony Barbiris, Trustee; Business Owner/Applicant: Felice Bonfa. The motion passed unanimously.

Motion: A motion was made by P. Paicos and seconded by L. Matthews to set a public hearing date for the special permit for July 3, 2019, at 7:15 p.m. The motion passed unanimously.

B. May 2019 Financial Report

R. McManus read the May 2019 Financial Report.

C. Continued Public Hearing – Modification to a Previously Approved Site Plan, Newbury Golf Center, 131, 133, & 151 Scotland Road, Map R43, Lots 2, 11 and 4B; Applicant: Erik Sorensen, President, Newbury Golf Center, Inc.

The Board of Selectmen joined the Planning Board for the joint hearing. The Selectmen present were: Alicia Greco, Mike Doyle, Damon Jespersen, and Geof Walker. At this time Brian Winner, Town Counsel, also joined the Board.

At 7:15 p.m. R. McManus, Chair, Planning Board, opened the continuation of the public hearing to consider a Modification the Previously Approved Site Plan. R. McManus noted that G. Morse had been absent at the April 9, 2019, public hearing session and that he had submitted the required certification stating that he had watched the video of that hearing session.

D. Jespersen called for a motion to open the Board of Selectmen's meeting.

Motion: A motion was made by M. Doyle and seconded by A. Greco to open the Board of Selectmen meeting. The motion passed unanimously.

Due to change in Board membership following the election, the Select Board was required to re-notice the public hearing in order to have the required minimum of four members to hear the Special Permit Application. D. Jespersen read the legal notice for the re-noticed public hearing. D. Jespersen also announced that J. R. Colby, Chair of the Board of Selectmen, had recused himself from the proceedings and that therefore, D. Jespersen, was serving as Acting Chair for the hearing.

E. Sorensen, Newbury Golf Center, came before the Boards and gave an update on the status of the project. He said the weather has played a huge part in what is happening on the site, for example, they were shut down for two days because they could not move equipment around, it was too muddy. This has happened a couple of times, tomorrow does not look that promising either. They are a couple of weeks behind schedule. The area in front of the pond has been done, the berm has been seeded. They are really working on getting the pond area to grade. John Miller, site manager, has been working on some of the grading around the tee box area, working on the high areas. He would like to start to work on the driveway. He has not been able to do much work in back because of the weather, so he has been really concentrating on the front area. They have not started on the Building because they are waiting for material for the footing, they are not able to get back there, it is too wet.

E. Sorensen's attorney, M. Rosen, said that their request tonight would be in reference to conditions E and F. In light of weather conditions and to keep work moving they would like them modified or approved.

D. Jespersen asked for questions from the Boards.

P. Paicos asked what they have been seeing on their visits to the property.

D. Jespersen said there were two instances of muddy water coming off the site, which was addressed right away. There have been two instances of working late. Beyond that, progress has been made. He said he would like to go out to take another look before signing off on E and F.

G. Walker asked if the consulting engineer has a report for the Boards.

M. Taylor said that he has been touching base, things are progressing slowly because of the weather. He had some concern that priority area number two was not being worked on and wonders whether there might be some lighter equipment that could go out there so

that it could progress. He is good at bringing issues to their attention and there have not been any.

R. McManus asked the applicant to explain a little about priority area number 2. She said it was messy when they were out there before.

E. Sorensen said that it has continued to be like that and it would just make a mess to try and work on it and it would not be an efficient use of their time. J. Miller just doesn't want to open it up because it will just create more problems.

D. Jespersen said that he thought the back area and the driveway both could not be worked on in wet weather, so what has changed.

E. Sorensen said that the winter rye has germinated in the back so it is stable.

R. McManus asked how close they are to being done with the pond in front.

E. Sorensen said it is completed.

G. Walker asked where the short game and putting greens.

E. Sorensen said they are in front. He said that he will have to take material from the driveway for the green. He doesn't want to move the material twice if he doesn't have to. He likes to move it to its final destination.

D. Jespersen asked how much hammering there is left to do.

E. Sorensen said that they have a couple weeks left of hammering and the hammer is broken right now and will be back in a couple weeks.

A. Greco asked if the hammering needed to be done to complete the grading.

E. Sorensen said that the hammering is out of the way.

G. Walker said they are going to miss germination of the rye.

E. Sorensen said that it just depends on the weather.

M. Doyle asked when a good time for a site walk would be. E. Sorensen said anytime.

G. Walker said that maybe they should look at things that might make releasing E and F inadvisable.

R. McManus said that that is a very good point because that was one of the reasons, they put those conditions in there so that work would not be done when there was a lot of mud and there is still mud. It is a big cut. Given what we have seen so far and how they have handled the less than ideal conditions do we have enough confidence to allow them to go forward with this?

D. Jespersen said that the issue that he has is that they asked for prioritization on the other area, he understands about the weather, but do they want to allow them to work more quickly on the rest of the site.

M. Rosen asked if could offer a suggestion, the Boards prioritized them one, two, and three. One is done, it does seem like if it is always a constant management of weather condition why wouldn't you open up three now. The question is, has J. Miller shown that he can manage the site and manage the weather conditions and would there be a detriment to trusting him to do it. Otherwise, it may not get done this year.

E. Sorensen said that he has area three almost done except the cut.

P. Paicos said if there is still rainy season ahead and you open that up it is going to be really hard to control.

R. McManus said we are going to need an explanation of how you are going to control the area before we give permission.

G. Walker said that they should possibly have the town's review engineer look at their control plan.

Mike Laham, Civil Engineer, Morin Cameron Group, said that he has been working on this project and is familiar with the site. He said that Scott Cameron had planned to use a couple of temporary sedimentation basins and that would be a critical piece in controlling the storm water. In addition, they would use silt fence, silt sock, and check dams.

D. Jespersen said that his concern is that if they have more rain like we have had recently, with an inch and a half in an hour, even with all that, stormwater will still overflow and run into Scotland Road. For his comfort he would like to do a site walk with the Town's Engineer and the applicant's engineer to really make sure the numbers are right. D. Jespersen said the whole Board could go out or just R. McManus, D. Jespersen, and the Engineers could go and assess it.

A. Greco asked either way, whatever is decided, what comes next. Would the Boards have to vote or can R. McManus and D. Jespersen make the decision?

R. McManus said that is why we designated the chairs.

M. Rosen said that the designated acting chairs could decide on E and F.

A. Greco said that she is ok with that as long as Joe Serwatka, Town Review Engineer, looks at it.

D. Jespersen said that he definitely wants J. Serwatka to look at it. He asked the Board members for comments; how do they feel about area number 2 not being worked on?

E. Sorensen said that some of it has been worked on, just not all of it because of the weather.

G. Walker said if Doug Packer, Conservation Commissioner, could join you visiting the site that would be good.

A. Greco said that she is comfortable with them making that decision.

R. McManus asked if the Planning Board was comfortable with that. All said yes.

G. Walker said he will be comfortable if there is a contingency plan if there is four days of rain you will know what you will do to control it.

E. Sorensen said that they have all those materials on site.

R. McManus said they want to hear that plan on their site walk.

E. Sorensen said that he thinks that J. Serwatka can tell them that there is nothing coming down in storms now.

R. McManus read an email from Laura Hanlon, an abutter to the project, dated April 24, 2019. L. Hanlon expressed her concern that waiting for the rest of the project to be complete the screening near her house because it toward the back of the project and the developer may not want to bring heavy equipment back over the completed area that has been graded and seeded.

D. Jespersen read a second email from L. Hanlon receive June 3, 2019. L. Hanlon wrote to follow up with a site walk that M. Taylor, D. Jespersen, and R. McManus took on her property.

D. Jespersen said that a number of times they have requested a mockup of the lights that will be used on the property so that they can look at them as far as the mitigation plan is concerned. He spoke with the DPW director today and the town has recently acquired a bucket truck that can go up 75 feet. Now that they have the ability to put something up in that range and they know about how much light the fixtures will be putting out, D. Jespersen said that he would like to see if the Board is comfortable using the Town's facilities to put something up so that they can look at it from the Hanlon and Carbone properties.

E. Sorensen said that Musco's technology is so far ahead of most other lighting that it would not be an accurate representation if they did that.

M. Rosen said that the Board will have the ability to tell them that they cannot turn the lights on and E. Sorensen will have spent a quarter of a million dollars to install lights he can't use. With that said to put up a light that isn't the right light is just going to incite people because they will think it is going to be something different than it is. M. Rosen said if they want to buy a fixture from Musco and have them set it up properly and correctly.

P. Paicos said that the Board is trying very hard to appease a situation and concern. P. Paicos said D. Jespersen's suggestion is they have a bucket truck they can use, P. Paicos said his suggestion is that the applicant get a light.

E. Sorensen said that he has asked and they don't do that.

P. Paicos asked if E. Sorensen wants to spend that much money and not be able to use them. He said he does not like that offer. Get a light or get something as close to it as possible. This is an attempt to calm people's concerns, I would jump on this opportunity not resist it.

E. Sorensen said that he will contact Musco and get something that throws the exact same light off as those lights. I'll have them recommend what it is.

P. Paicos said he thinks it would be a great opportunity.

M. Rosen said that he wanted to clear up that there were no trees taken down outside the limit of work on the Hanlon property line.

P. Paicos said that the lighting has always been a concern, let's try to address this and facilitate the process.

M. Doyle asked if the lights are anywhere in the state. E. Sorensen said Leo J. Martin.

M. Taylor said that they have photos. M. Doyle asked what they are like. M. Taylor said it is difficult to compare them because on this site there is a large change in elevation and Leo J. Martin is a relatively level site.

M. Rosen said at Leo J. Martin they have a trail going around the outside of the range so the lights are illuminating that as well and so they are not as focused, but they do give you a good sense of what a zero light intrusion light fixture looks like.

R. McManus said that she would suggest that they continue the planting along the top of the berm near L. Hanlon's property, it will help you in the long run.

M. Rosen asked if the Board would approve a sub plan that just dealt with the Hanlon property line. If they did that, he would want to be careful that they would not have to go back and do it again.

R. McManus said that they may have to go back and add to it that has always been part of the understanding. If the landscaping that you put in does not do what the abutters need it to do it has always been the understanding that you would go back and add to it.

E. Sorensen said that he would rather just wait until the end.

M. Rosen made a suggestion that the Boards consider revising the conditions to allow but not mandate an interim plan. Then E. Sorensen can talk to the arborist and Miller to see if they think there would be any harm waiting until the end or doing it before.

G. Walker asked if there was a plan of how many trees were going go along that ridge line.

M. Rosen said he is concerned that if the trees don't work, they will have to take them out.

R. McManus said that they need to fill in the ridge.

M. Rosen said that until they can see what needs to be screened, they will not know where to put the trees. The applicant has an obligation to replant to the extent that they violated the orders or are causing a problem with the lighting. The trees that were removed that are allowing the Hanlon's to see open sky were allowed to be removed.

P. Paicos said that they are not arguing that, they want to make sure that there isn't light scattered on their property. D. Jespersen's suggestion is a very inexpensive suggestion and you can see what kind of light mitigation control you are going to have to do.

M. Rosen said that if there is not light scatter, he doesn't believe they have any obligation to plant trees there.

A. Greco commented that L. Hanlon is alleging that the cut line was moved 10 feet back from what was approved, is that true?

D. Jespersen said it is hard to say and he does not know the answer to that question. We may have discussed moving the line forward but it may not have been reflected in the plan after that site walk and discussion.

A. Greco said that if the cut line was not shifted but she approved it based on the fact that she thought it would be moved she is not comfortable with the project moving forward without significant mitigation for that.

D. Jespersen said that this comes back to making a clause in the conditions that they can make an interim plan for the Hanlon property line. Town Counsel indicated that that would work. We will have to look back at plans and address that question at a later date.

M. Rosen said that he does not think they can look back at one moment in a hearing because they may have revisited the conversation multiple times and changed the amount that they decided to move the line.

B. Winner said that it may not be necessary to make an amendment but it may be wise to record it. The condition does not prohibit the applicant from putting a plan together in the interim, it just says that they must do one at the end.

R. McManus said that it doesn't matter to her where it happens now or at the end as long as it happens.

E. Sorensen said he just does not want to do it twice.

M. Rosen said that he should still talk to N. McCarthy and J. Miller about the benefits of doing something now versus waiting.

G. Walker said if there are light impacts on the neighbors that are not mitigated then you will not get your occupancy permit.

M. Rosen said yes or we will not be able to turn on the lights.

D. Jespersen asked for any further comment from the Boards.

A. Greco asked where they stand with the lighting mockup.

E. Sorensen said that he is going to get something from Musco or have them recommend another light to use.

M. Rosen asked if the bucket truck has power. If not, a generator?

D. Jespersen said he would need to find out what will be needed.

G. Walker said if they need to have the Town's electrician wire it in, they probably could.

M. Taylor said that this is something that is done all the time in architectural projects, I can't see that it wouldn't be possible.

A. Greco asked if Musco has emailed them saying that they won't do a mockup.

E. Sorensen said that he has asked 4 times and they told him they don't do that.

D. Jespersen said that given he won't give you a light they will all look at it as their lights will be better and more shuttered, but it will give us an idea to work from.

D. Jespersen opened the discussion to the public.

Deb Carbone, 123 Scotland Road, said she is tired of the work going past 5 p.m. she can't help but notice when it does. Jeanine Cunningham also will be affected by the lights and something will need to be done about that. She asked if they will get to see the lights when they come out. D. Jespersen said of course.

Jeanine Cunningham, 143 Scotland Road, said that she is a direct abutter and is waiting to see what the driveway looks like. She has been talking with E. Sorensen and he has said that if it is a problem, he will put more trees up, but she just wanted the Boards to know that she is affected like everyone else.

A. Greco asked how they should address them working late.

M. Rosen said that the first time it happened E. Sorensen talked with members after and they told him that he needed to communicate if it was to ever be an issue again. The second time E. Sorensen emailed 12 public officials at 5:02 saying that J. Miller recommended they not leave the site before stabilizing it since there was rain coming. He got a response from the Building Inspector saying, "Thank you." No one said stop or don't do it. The Carbone's have every right to be upset, but to the same point if J. Miller

is doing something to secure the site for the night, that would be something to consider when discussing this.

P. Paicos said that the Building Inspector would be the primary person you need to respond, but if there is a crisis a phone call or a text message is the way to go because not everyone checks their email that frequently.

Mike Carbone asked why they waited until 5:02 p.m.

A. Greco said that they have to be mindful that they are in a residential area and the town has allowed them the privilege to have a business there. It would be the neighborly thing to do to let the neighbors know that you have to work late to button up the site. Communication would go a long way into solving your problems.

R. McManus said she got the email and appreciated it but the problem was that the abutters did not get the email.

D. Jespersen said that they should plan better to button up before the work day ends. If you know something is happening get ahead of the neighbors and talk to us in person.

M. Rosen who should be notified? We had agreed we would email 12 people. I don't want to call 12 people.

P. Paicos said you have two chairs, the building inspector, and three abutters.

G. Walker said plan farther ahead and in writing plan how you are going to notify the people that need to be notified.

A. Greco said that none of us want to hold this project up, we want to see it go as fast as it can.

M. Rosen sent a pad of paper around to collect numbers to be notified in the case of emergency.

D. Jespersen asked when the next public hearing should be planned.

M. Rosen asked what would be the next thing on the list to get permission for.

A. Greco asked when the landscape plan will be done.

E. Sorensen said I thought we decided to wait until the building was up and we can see the site lines.

A. Greco asked when the buildings will be up.

E. Sorensen depending on weather they will start in 2 or 3 weeks. They will definitely be up by the first week in August.

D. Jespersen said he would like to plan a site walk. The Boards discussed the continuation on August 7, 2019 and a site walk for August 3, 2019.

Motion: A motion was made by A. Greco and seconded by M. Doyle to continue the public hearing on this matter to August 7, 2019 at 7:15 p.m. The motion passed unanimously.

Motion: A motion was made by P. Paicos and seconded by G. Morse to continue the public hearing on this matter to August 7, 2019 at 7:15 p.m. The motion passed unanimously.

D. Jespersen asked for a motion to adjourn the Selectmen's meeting.

Motion: A motion was made by A. Greco and seconded by G. Walker to adjourn. The motion passed unanimously.

The Board of Selectmen left the meeting. Planning Board member George Morse left the meeting as well.

D. Wireless Communications By-Law

M. Taylor said that they have received a request from the Board of Selectmen to review and revise the Wireless Communications Services Overlay District By-Law. She said that they think it makes sense to hire a consultant to assess the coverage in Newbury. The Board discussed how to go about finding a consultant.

E. Master Plan Update

M. Taylor updated the Board on the status of the Master Plan update. She said they had made a big push on the Natural Resources section and John Weis had had some comments which needed to be incorporated. She had received a revised draft of the Historical and Cultural Resources section from the Historical Commission, but M. Taylor has not yet been able to review them. M. Taylor asked if they could form some working groups to focus on these tasks and to make sure the Board members are involved.

F. Minutes

Motion: A motion was made by P. Paicos and seconded by L. Matthews to approve the minutes of the May 15, 2019 meeting. The motion passed unanimously.

G. Liaison Report

M. Taylor reported on the Merrimack Valley Planning Commission (MVPC) Planners meeting. They had someone from the Mass DOT talk to them about the ADA (American with Disabilities Act) Transition plan that the Town needs to do. They also had a

presentation on the land conservation strategies the Essex County Greenbelt is undertaking right now. M. Taylor reported that she and the Town Assessor have been working with MVPC on the Assessors map updates. M. Taylor discussed some changes that were suggested in the transportation plan. M. Taylor reported that the Board of Selectmen made a request for a revision to the wireless communications bylaw.

R. McManus reported that the Conservation Commission had a site walk today on the proposed project on the lot at the end of Shandel Drive. They are concerned about the proposed location of the house.

M. Taylor reported on the Zoning Board of Appeals on behalf of G. Morse and noted that one of the items that has been before the ZBA is an application to turn the former Angie's Service Station on the corner of Plum Island Blvd and Old Point Road into a restaurant.

On a motion made by P. Paicos and seconded by L. Matthews, the meeting was adjourned at 8:58 p.m.

Respectfully Submitted,

Emily Noble
Planning Board Administrator