Minutes of Meeting
Thursday, August 6, 2020

Members Present:
Peter Gabrielle (PG) – Vice Chairman
Brian T. Salisbury (BTS) – Member

Also Present:
James S. Kupfer, Town Planner and Zoning Compliance Officer

Also, Present Via Zoom:
Timothy Aicardi, Building Commissioner
Laura Renaud, Recording Secretary
Rayan Shamas (RS) – Member

Absent:
Brian Wright (BW) – Chairman
Arturo Paturzo (AP) – Member
James Jeschke (JJ) – Alternate Member

New Public Hearing:
Special Permit (animal kennel) – 65 Hixon Street Map 7 Lot 20
Applicant: Adriana Crow

Members Present:
Peter Gabrielle, Brian T. Salisbury, Rayan Shamas

Vice Chairman Gabrielle opened the Public Hearing for 65 Hixon Street.

Planning/Zoning Officer Kupfer read the Public Hearing notice.

The applicant, Adriana Crow and her son Nathan were in attendance via zoom. Nathan Crow spoke on behalf of his mother Adriana Crow. Mr. Crow explained that he has 8 small pug dogs. He currently lives in Brazil and will be moving to Bellingham to care for his parents. They currently have 1 dog, a Siberian Husky. They are requesting the permit for a total of 9 dogs. Mr. Crow explained that his dogs are at a maximum, 25 lbs., very quiet and when they do bark, it is a muffled type bark. They do exhaust easily and sleep a lot. He works from home and is with them 24 hours a day.

Member Salisbury stated the main concern is for the neighbors.
The Board Members discussed how the barking could be limited. They questioned what type of enclosure he would have, waste control and how they may react to the current dog on the property.

Mr. Crow explained he is in the process of obtaining a quote for a chain link fence and would have a small covered structure with a cemented pad for them to eat and lie down in. He understands there would be an adaptation period with the current dog as they have not met before. He currently has a backpack for waste bags he takes for walking with the dogs. There are pads he puts out on his patio now as he lives at an apartment building, but they would have the fenced in yard in Bellingham. He explained if they are barking a lot then it means they want to play. He takes them out for a brisk walk to get their energy out.

The Board opened the hearing to public for comments.

**Resident Mike Shanahan, 3 Damon Road:**
Mr. Shanahan was concerned about this being a business as this neighborhood is residential. He questioned as to why a permit is needed instead of a waiver.

Planner/Zoning Officer Kupfer explained that this would not be a commercial kennel. The way it is in our local bylaw is that for the care of 3 or more dogs is classified as an animal kennel. It does not mean if permitted it will be a commercial kennel. It is only for his personal pets.

Vice Chairman Gabrielle explained that if this was permitted there would be conditions.

Building Commissioner Aicardi asked if the board does permit this could it be conditioned so that he as the Commissioner has some enforcement. If he gets a call or complaint, he would like to be able to address the complaint.

**Resident Gary Belcher, 70 Hixon Street:**
Mr. Belcher questioned when the applicant did walk his dogs would it be on Hixon Street and asked how many dogs did, he walk at one time. He also wanted to know where the dogs would play. Another question he wanted answered was why this is called an Animal Kennel if it is not commercial.

Mr. Crow explained he does walk all 8 at one time. He is very conscientious of their waste cleanup. This type of dog has a small airway and they exhaust easily and cannot walk far. The dogs would play outside in the proposed fence in yard.

**Resident Claire Lofgren, 73 Hixon Street:**
Ms. Lofgren expressed her concerns about the overall makeup of the neighborhood with many kids, a group home, current dogs and traffic that has populated Hixon Street. She stated that she doesn’t understand why this would be allowed. She felt they already have enough issues on her street, and this would only be a negative effect to the neighborhood.
Resident Pam Venini, 20 Barrett Lane:
Ms. Venini explained she is 20 feet from the property line and the barking is a concern as it is a quiet street. She asked if the applicant would consider a bark collar if it became an issue.

Mr. Crow said he would consider it but would check with the Humane Society first.

On a motion made by Member Salisbury and seconded by Member Shamas, the Board voted by roll call vote to close the public hearing.

Roll Call Vote:
Peter Gabrielle  aye
Brian Salisbury  aye
Rayan Shamas    aye

The Board understood the concerns of the neighbors with the main issue being noise control. They agreed if the permit was issued, they would have to put conditions to follow and a three-month review time to come back to the board. Mr. Crow would have to get licenses from the BOH and Animal Control. If any complaints came in it could be a violation of the permit. It would be a non-commercial special permit for no more than nine dogs and if any dogs died or he gave any away he could not replace them.

Vice Chairman Gabrielle stated the three-month time frame might be a problem as the applicant may have trouble coming into the country at this time.

Member Salisbury stated the conditions were fair and he would like to add that no more than three dogs should be out at one time to keep the noise down.

Vice Chairman Gabrielle suggested four dogs at a time to keep it to two trips for the applicant.

Planner/Officer Kupfer reiterated the conditions the board discussed:
- BOH license and any violation of that license would violate the Special Permit if granted a non-Commercial Permit
- A three-month review period from the date it is approved then applicant would have to return to the ZBA for an update.
- If any complaints come in before the three-month review period from the Building Commissioner, Board of Health or Animal Control Officer and/or neighbors that may affect them negatively and have the permit revoked.
- There will be no more than 4 dogs out at one time walking or in the yard.
- There will be no more than 9 dogs. If one is given away or passes away it would remain at that threshold.
- The applicant will give an update on fencing when he returns.
Member Shamas stated the conditions were fair, as the neighbors are a major concern; they need to feel safe and happy in their neighborhood. The limitations should make the neighbors feel more comfortable.

Mr. Crow stated he would agree to the conditions. The dogs are micro-chipped as a safety control. His plan is to get to the US in October and have the fencing done then. He also must get all their paperwork in order and his family’s passports.

Planner/Officer Kupfer explained that the Zoning Board of Appeals does not have a quorum as 4 members out of 5 are needed for a Special Permit. It cannot be formalized but can be continued until 4 members are present. The applicant was asked if they would like to continue and could zoom into the meeting on September 3, 2020 at 7:00 PM.

Mr. Crow agreed to continue to next month and stated he has heard the conditions and does agree to them.

On a motion made by Member Salisbury and seconded by Vice Chairman Gabrielle the members voted by roll call vote to continue the hearing to Thursday, September 3, 2020 at 7:00 pm.

Roll Call Vote:
Peter Gabrielle     aye
Brian Salisbury     aye
Rayan Shamas        aye

CONTINUATION PUBLIC HEARING:
Comprehensive Permit – Extension Follow-Up Lakeview Estates

Members Present:
Peter Gabrielle, Brian T. Salisbury, Rayan Shamas

Applicant Representatives via Zoom:
South Center Realty Attorney Angela Conforti
Site Supervisor Alex Gow

The continuation hearing for the Lakeview Estates Comprehensive Permit was opened.

Planner/Officer Kupfer provided an update on the status of Lakeview Estates. The applicant and Town Planner met on site and the applicant indicated they were working on the redesign of the drainage on Silver Lake Road. This has been an ongoing concern for the town, which needs to be rectified. Planner/Officer Kupfer has also met with DEP. The Conservation Commission and developer have met with DEP to discuss the conservation issuing with phase one. There have been concerns with the dust activities. This has been mentioned to the site supervisor. The Environmental Protection Association has issued an enforcement order.
Attorney Conforti clarified that it was not and enforcement order from DEP but a Notice of Non-Compliant. A dust mitigation plan has been submitted and DEP is in receipt. The Zoning Board was informed that the applicant is stated that they are ready to start paving in the phase 2 roadway, which will help a lot with the dust control. There has been discussion of an addition of another outlet pipe for the drainage on Silver Lake Road. This has been an ongoing discussion with the Conservation Agent, Conservation Commission, DPW and DEP. The Conservation Commission has requested more drainage calculations. Attorney Conforti also explained that they want to get started on the addition of the outlet pipe. The applicant Engineer Bob Poxon could not be in attendance. Site Supervisor, Alex Gow communicated that the area of Celestial Circle there has been blasting which has just been finished.

Vice Chairman Gabrielle requested the paving dates.

Mr. Gow stated that all the pavers are very busy, but this area will be prepped, but this should be no more than three weeks.

Planner/Officer Kupfer explained that they are waiting for the drainage improvements on Silver Lake Road. It is part of the essential infrastructure that has been talked about for five years. That is a critical part of phase one. The Building Commissioner communicated that the applicant has five Building Permits to remaining in phase one. Since the applicant is nearing the end of phase one for building, the town wants to make sure that the essential infrastructure works properly before moving on.

Member Gabrielle communicated that if this was designed properly the first time, the applicant wouldn’t have to keep providing re-designs and changes. Member Gabrielle has many pages of notes on the water issues from the neighbors over the past several years.

Member Salisbury questioned if the issuance of Building Permits in phase two are conditioned on the completion of the essential infrastructure of phase one.

Planner/Officer Kupfer explained that the completion of essential infrastructure is contingent upon the extension of the permit. This is the main reason we are here every month. The comprehensive permit references (see condition 16) infrastructure being completed in 6 years. It was issued in 2011. And construction began in 2014. The Board has continually reviewed the infrastructure progress each month. Unfortunately, it has been determined by this Board with guidance by staff inspecting the site, that the essential infrastructure has not functioned properly and therefore is not complete. Continued impacts to abutters from failed infrastructure have been directly impacted by this project.

Conservation Commission Chairman, Cliff Matthews was present during the zoom meeting. The Commission would like to see a new Notice of Intent so they can completely evaluate the underground conditions of the drainage that needs to be addressed. The original calculations seem to be missing. Rather than trying to come up with a piece meal strategy to fix this, the Commission would like to have a new Notice of Intent where they completely evaluate the volumes of stormwater, they are getting from Lakeview Estates. This project needs to be pulled together to figure out what the volume and velocity of water is. Once this is determined, it will
need to be sent it out for peer review. The Commission needs adequate evaluation to determine how to move forward to address the storm water management system. The Conservation Agent, Town Planner and DEP were out on site and saw the applicant pumping groundwater into a resource area. It is a questionable activity. There also needs to be a complete evaluation of the ground water as it relates to the basin. It is on record multiple times that the applicant has communicated there is high groundwater. The groundwater could actually intercept the basin bottom negating the necessary storage capacity. This is a major issue. DEP has required a monitoring well. Attorney Conforti communicated that she spoke with Howard Fafard about a peer review at the developer’s cost to look at the drainage re-design. Mr. Matthews stated that would be part of the NOI process.

The discussion moved to phase two. Haul road is between phase one and phase two, and this was not shown on any plan. It was suggested that Haul Road which is on open space, should be removed and the property be restored to open space type conditions.

Site Supervisor Mr. Gow explained that part of the Haul Road drains into the temporary sediment. He requested that if there is some construction going on at Candlelight Lane, he would like to have Haul Road opened since they need to be able to work. Vice Chairman Member Gabrielle questioned as to how they can get a full evaluation of the basin. Planner/Officer Kupfer stated that they are on the right track with requiring a full Notice of Intent. The hearings can be heard while getting it reviewed by peer review. If the applicant files a Notice of Intent for the basin with peer review, then the Conservation Commission Chairman can provide the board on their findings. The goal is to get the basin and all the drainage completed correctly and to get rid of the negative impacts this site has created that are happening today. The applicant agrees with the process. The board members agree with the process with the Conservation Commission and the peer review but questioned issuing building permits on phase two with the basin issues still happening.

The applicant questioned on what basis the board would refuse permits.

Planner/Officer Kupfer explained that the essential infrastructure for phase one is not completed, therefore, the comprehensive permit shall be conditionally extended on completion of all essential infrastructure and a successful submitted NOI that includes the drainage and that the peer review has provide guidance and that issuing building permits for phase two shall not be done until all essential infrastructure is completed as determined by this Board.

Attorney Conforti communicated that the basin is complete and this was determined last year after the cease and desist, and this is why there was a redesign of the basin. It was further communicated that the Zoning Board is now concerned that the essential infrastructure is not complete because the drainage did not perform above and beyond what it is required to handle. She communicated that the system performed as required to do so.

Planner/Officer Kupfer explained that the basin may be performing well for what it captures. However, it is missing a great amount of flow that is bypassing the basin and going onto Silver Lake Road. This is what we needs rectified as well as understanding if the basin then can handle the additional volume it is missing as presently constructed.
Vice Chairman Gabrielle commented that the whole drainage is part of the infrastructure. This problem has been continually discussed with the neighbors who have major water issues. Something is wrong with the system and we need to know what is going on and make it right. If it was corrected and working properly, we wouldn’t be here.

Member Salisbury commented that with the new peer review, the applicant can get to the bottom of this issue and solve it.

Board Members discussed what action to take. Planner/Officer Kupfer explained that they could motion to extend the permit to a specific date with no issuance of building permits for phase two until the drainage for phase one is improved.

Site Supervisor Mr. Gow requested the Board hold the occupancies instead of the building permits. They have 10 sales in phase two and he explained they could at least get stared. They do not get paid until they get their occupancy permit. He felt this could give them incentive to complete them. It will take months to get these houses built and months for the NOI and DEP to be completed. This will allow them to get started and if they don’t have it fixed by the time houses are done then it gives the applicant more motivation.

Planner/Officer Kupfer explained that the essential infrastructure has to be complete in order to continue the process. It is written in the decision that if it is not complete, then the Board can revoke the whole project with a cease and desist. The Board has been generous enough to grant several extensions.

Vice Chairman Gabrielle stated the permit could be pulled at six years.

The Board asked what a reasonable time frame was to extend the permit.

Planner/Officer Kupfer asked Cliff Matthews what a reasonable process for the NOI is if they moved in an orderly fashion.

Mr. Matthews stated they have a few concerns. One month ago, the DEP required the applicant to put in groundwater monitoring wells and it is not done. The basin does not meet the stormwater management standards. They have unpermitted swales running down from higher elevations and those swales are not storm water management structures. They are velocity mitigation structures that don’t meet the performance standards. He continued to state that when you have the opportunity to hold building permits for phase one until the basin is properly designed and constructed it protects the residents living there and on Silver Lake Road. If information is presented and standards are met, and the peer review is conducted then it would take a few months. If the application takes two months to submit and any information is missing, then it could take a while. He felt that the history of the applicant is not good. If everyone cooperates and does there job a few months is all it takes; but if not, he cannot comment.
Vice Chairman Gabrielle asked for an explanation as to why one month ago they put ground water monitors in, and it was not done. Applicant had no comment. Mr. Matthews stated it must be provided in the NOI.

Building Commissioner Aicardi explained that the grates are not capturing all the water going down to the street; it’s going right over.

Site Supervisor stated he did speak with Bob Poxon, G & H Engineer and there is a well with a pvc pipe at the bottom. The check dams were put in because there was no vegetation originally. These were temporary until the grass grows.

Member Salisbury questioned how many building permits there are for Phase 2.

Building Commissioner Aicardi stated that no building permits have been issued in phase two yet. He asked if there has been any secondary review on Lovers Lane and Celestial Circle.

Planner/Officer Kupfer stated the basin is carved out to the specs. It is acting as a temporary basin. Mr. Gow confirmed that it is temporary.

The Board agreed they have been discussing this problem for way too long. The basin is not capturing all the water and the applicant is not taking it seriously. The neighborhood is asking for help and we just need to see results.

Site Supervisor Mr. Gow stated that Celestial Circle will be paved within 3 weeks. They can come back in one month with answers.

Planner/Officer Kupfer told the applicant that the three to four weeks will be enough time to get paving done which will help with the dust concerns. They need to get to work on the NOI. There are five permits left in phase one and then they can come back in September to discuss.

Site Supervisor Mr. Gow stated he will get the high velocity grates up at the bottom of Candlelight Lane for next meeting.

Attorney Conforti communicated that the Silver Lake re-design plan is done. She is not sure how long the groundwater test and drainage calculations will take. The applicant would like to return in one month.

On a motion made by Member Salisbury and seconded by Vice Chairman Gabrielle the board voted by roll call to continue the Comprehensive Permit extension to September 3, 2020 with the condition that no building permits for phase two will be issued at this time. The applicant must show progress and submit the NOI to the Conservation Commission and have the design for improved drainage.

Roll Call Vote:
Peter Gabrielle aye
Brian Salisbury aye
Continuation Public Hearing:  
Comprehensive Permit – 40B – 161 Mechanic Street

Members Present:
Peter Gabrielle, Brian T. Salisbury, Rayan Shamas

Applicants Representatives:
Matthew Clark, Owner
Russell Dion- Campanelli Companies

Applicants via Zoom
Jesse Johnson, Bohler Engineering
Ron Muller, Ron Muller Associates
Peter Freeman, Counsel

The applicant presented a power point presentation of the Curtis Apartment by Mr. Russell Dion, Campanelli Companies.

Attorney Freeman asked to confirm the member status.

Planner/Officer Kupfer confirmed that there are three members are eligible for voting. The members not in attendance will listen and watch the meeting and confirm that they have viewed the information.

The applicant Mr. Dion communicated that since they last met, there was a site walk on Tuesday, July 14th with Board Members, and neighbors. The site walk involved observation of the signal on Maple and Mechanic Street. On Friday, July 24th there was a signal observation in the am peak time and also a balloon test. There were two individual neighborhood meetings held. The peer review has not yet been completed. The applicant has met with Abutters Jean Keras and Enzo, president of one of the Homeowners Association there. The distances were shown from their building to the proposed garage. Both of the edges of the buildings are where the existing buffer stops. There will be 8 to 10 evergreen trees which provide buffer. The additional buffer plantings shall be planted jointly after speaking with the owners and abutters regarding size, type and location. Some parts of buffers work out well and others don’t. The intent is to complement the existing buffer. The existing buffer is very dense. The applicant will leave as much as vegetation as possible.

Applicant, Mr. Dion read an email from resident Jean Keras. The email made reference that the second plan presented is more accommodating to her. This plan includes having two stockade fences going across the whole back of the property.

The Board was made aware that there was a second neighborhood meeting with the applicant.
The applicant continued his presentation. They looked at building five which fronts Mechanic Street. There is a retaining wall which is close to the leasing center and outdoor amenities. The retaining wall and the roadway is aligned with the signal from the Lincoln Properties project. There are three or four existing trees in front of building that will remain. Those are 47 to 62 feet tall.

The applicant provided information on the balloon test. The balloon test provides a sense of visualization of what will be on site. The original submission street views and the proposed changes were shown. There will be shrubbery to block the headlights which will be 36 to 42 feet.

The applicant next discussed traffic. There was a traffic report conducted by Ron Muller & Associates dated April 30, 2020. The traffic impact and access studies were done to evaluate the impacts of Curtis Apartments. The study shows development of the site is expected to result in minimal increases in delay and vehicle queues at the study area and site driveway intersections. There was a recommendation that the proposed site driveway opposite the new subdivision road provide an exclusive left-turn lane and through right-turn lane, operating under stop-sign control in the interim until traffic signal control is installed. At the Route 140 site driveway, Lincoln Property has received approval to develop the east project site. As part of the improvements, the site driveway will be shared with the residential development on the west. This will include widening Route 140 to provide an exclusive eastbound left-turn lane and channelized right-turn lane and constructing the driveway to provide exclusive left and right turn approach lanes, installing underground signal conduit for future signalization of the intersection. The project will result in increases in traffic with the greatest on Mechanic Street (Rt 140) east of the site where 50 to 64 additional vehicles are expected during peak hours. Under the existing conditions, all study area intersection approaches operate at levels acceptable during peak hours with the exception of the intersection of South Main Street (Route 126) at Mechanic Street (Rt. 140).

Vice Chairman Gabrielle asked if there was any discussion with the abutters on what would take place during the construction phase. The applicant stated that right now the neighbors can hear a lot of noises since the lot is barren. The applicant is aware that there is a noise bylaw along with requirements from construction hours. The applicant indicated that they will comply with the zoning ordinance in place. The applicant will be considerate (starting later) when working close to the most direct abutters.

The Board asked what they would be doing for dust control. The applicant stated that there will be a water truck onsite full time. Most of the trucks do have mud flaps guards but he will confirm that.

Member Shamas expressed concerns about the lighting controls which should be put in place for the abutters. The applicant explained that there is no light that goes off the pavement or over the property line. The project will comply with the lighting ordinance. The applicant can do a photometric study if the Board requests one.

The Board expressed concern over rain washing down the street as was witnessed back in June. The applicant assured them that once the construction entrance is started, they will comply with
the SWPPP (Stormwater Prevention Plan). It is their intent not to have any erosion control. The
grades will be cut down from what you see for a more level entrance.

Planner/Officer Kupfer commented on the soil erosion and sediment control plan sheet. It shows
two construction entrances. The main entrance is where the new intersection would be and that
would be advantageous. The other smaller entrance has terrible sight lines. If that is not
necessary, it would be good to take that one out and just use the main one at the intersection.

The applicant stated that intersection will be built early in the project. The first building would
be the leasing center and club house. One building at a time will be open and 12 weeks later a
second building will open and then 12 weeks later a third. They will open the interchange and
that becomes the Residential Community. The construction will continue to operate out of the
right hand turn only lane for construction and delivery until they work their way out of the site.
The applicant does not want to bring construction through the newly made roadway.

The Board questioned the secondary and temporary entrances. Planner/Officer Kupfer stated
that will be discussed during the peer review.

Member Salisbury had concerns about traffic the impact once people are on the roads and back
to work from COVID. The traffic in full force does back way up. He asked if the grades be
shrunken a bit. The applicant responded that there is a stake that is 5 to 6 feet taller than the
bottom of the building. It has been brought down a bit. The building is on the top of the rise.
Jesse Johnson commented that they did bring this down. The club house is at the higher
elevation. They are restricted by the stormwater system. This can be reviewed further.
The applicant will try to get the site down another foot. It was also recommended to put in a few
more mature trees which would be 21-inch caliber. This would create a better sense of scale.
The went with a flatter roof which is not visually tall, and the trend is to put as much as
mechanical equipment on the roof. It is a good solution for noise and sight control. They agreed
to take his concern into consideration.

Mr. Clark mentioned since the last meeting he did secure access to the left of building 5. This
will be used for commercial.

Member Shamas asked if the applicant has chosen the fence type. The applicant stated they have
not chosen a type of fence but prefer to put a good dense wooden stockade fence that can be
painted to a tone of color that matches the buffer.

Vice Chairman Gabrielle suggested larger tree plantings placed opposite of Mechanic Street to
Bellingham Center will provide for a visual buffer.

Planner/Officer Kupfer asked the applicant if they could include:
  • The screening exhibits in the plan set when finalized so it can be referenced during the
decision. The photometrics plan is to be completed to confirm there is no impacts to
abutters.
  • The traffic impacts; one is the adaptive signalization and the other impacts taking a left
out of the site as mentioned due to all shopping, dining, etc. going that way.
• The noise bylaw; what hours for construction work will you be seeking.

Planner/Officer Kupfer asked the Board and the applicants if a mid-month meeting would be agreeable to all to go over the Peer Review. August 20th at 7:00 PM

The applicant confirmed his group was available on August 20, 2020.

On a motion made by Vice Chairman Gabrielle and seconded by Member Shamas the Board voted by roll call vote to continue the public hearing to Thursday, August 20, 2020 at 7:00 pm.

Roll Call Vote:
Peter Gabrielle     aye
Brian Salisbury     aye
Rayan Shamas        aye

Minutes:
On a motion made by Member Shamas and seconded by member Salisbury the Board voted by roll call to accept the minutes from July 2, 2020.

Roll Call Vote:
Peter Gabrielle     aye
Brian Salisbury     aye
Rayan Shamas        aye

Adjourn:
On a motion made by member Salisbury and seconded by Vice Chairman Gabrielle the Board voted by roll call to adjourn the meeting.

Roll Call Vote:
Peter Gabrielle     aye
Brian Salisbury     aye
Rayan Shamas        aye

Minutes Accepted on 10/1/2020
(Date)
(Prepared by)

__________________________  ____________________________
Brian Wright                Peter Gabrielle

__________________________  ____________________________
Arturo Patrizzo             Brian Salisbury

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Rayan Shamas