



TOWN OF WARE

Planning Department
126 Main Street, Suite G, Ware, Massachusetts 01082
Tel. 413.967.9648 ext. 181 Fax 413.967.9627

Planning Board Minutes January 15, 2014

Planning Board Members present: Rick Starodoj, Chris DiMarzio, Fred Urban, Dave Kopacz
Planning Board Members absent: Joe Knight, John Chabot
Staff present: Karen Cullen, Director of Planning and Community Development
Public: none

7:09 MEETING OPENED
DIMARZIO MOTION TO APPROVE MINUTES OF 12-18-2013
URBAN SECOND
VOTED TO APPROVE 3/0/1; STARODOJ ABSTAINED

Signatory Authority – revoke and sign document

K. Cullen informed the board that the original document they had signed at the December meeting had been misplaced and we needed a replacement one. Since Chairman Starodoj is present tonight, the Board could re-vote the action so he could sign it as well (he was absent Dec 18). The Board agreed.

DIMARZIO Motion to authorize Karen Cullen, Director of Planning & Community Development for the Town of Ware, to act on behalf of the Planning Board in certifying or endorsing plans and other instruments that are required or authorized by the Subdivision Control Law to be recorded with the registry of deeds or registered with the land court.
URBAN SECOND
ALL IN FAVOR
The Board signed the memo, which will be sent to the Registry of Deeds.

Discussion on subdivisions sureties

Discussion about how to get developers of unfinished subdivisions to complete the work needed at their developments – road work, drainage systems, sidewalks. Concern about enforcement – once we start this process we need to follow through, and do so in all the unfinished subdivisions, not just one or two of them. Not sure we have the resources (including financial) to do that. The Board felt the steps we have taken to date have resulted in positive change, although it needs to go to the next level. Perhaps assembling a list of the work remaining for each one, with timeframes for getting the various items completed, and ramifications for not complying would be a good start.

Dave Kopacz noted that the drainage systems are not functioning as designed since the quantity of water entering the basins is not as designed, since the rims of the catch basins are at finish course level but the pavement is only at base course. This has caused problems elsewhere in the subdivisions with erosion and sedimentation of areas the drainage system was designed to protect. The Board agreed the drainage problems need to be addressed sooner rather than later.

Coldbrook Drive Discussion

The Board discussed the situation at Coldbrook Drive in regards to the lot currently being built on still being covered under the covenant surety. All agreed this lot should be released so as not to penalize the lot owner, who presumably received poor advice in the purchase process. However, all agreed the developer should agree to certain things prior to release of that lot:

- Board and developer to agree on a schedule for addressing deficiencies in the roadway and drainage system;
- Developer to provide the current status of the Homeowners Association and the (drainage maintenance) bank account required in the approval documents; and
- Developer to provide a report on the drainage system as annual inspections are required and none have been submitted to date.

The Board also agreed that no additional lots should be released until at minimum the drainage basin is cleaned up.

Karen provided a report from DPW which listed the various items that need to be done to finish the subdivision along with an email from Thom Martens regarding the report; the total amount needed is estimated at \$505,000 to \$527,000 (and increasing each year as the road continues to deteriorate). She said a figure of \$525,000 for a surety sufficient to complete the work should the developer walk away would be appropriate. The current monetary surety, assuming it is still valid (which we believe is the case) is \$250,000. Karen added this is a substantial difference and it would be appropriate for the Board to ask the developer for a higher surety. She mentioned she had been in contact with several colleagues across the state as well as Town Counsel on this issue and other towns are seeking higher sureties in similar cases. She also knows of cases where a Town has had to use public funds to complete subdivision infrastructure, a situation we want to avoid.

The Board recognizes that the Developer has the option to increase the monetary surety to \$525,000, at which point the Board will release all lots in the subdivision from the covenant. The Board also would entertain a request by the Developer for a waiver to the 75% build-out requirement and complete the subdivision as approved (road, drainage, monumentation, etc.) and would then release the covenant and monetary surety.

The Board agreed this general process should be applied to all of the unfinished subdivisions, although details will vary depending on what types of sureties exist for them.

Subdivision Regulations

The Board discussed potential amendments to the subdivision regulations:

- Amendment to Section IV-C item 1.e, preparation of roadway – the Board is okay with allowing flexibility but don't allow Developers to ignore drainage. We recognize there are other ways to handle stormwater runoff than getting it all into pipes and basins.
- Discussion on maintenance of drainage systems (catch basins, retention/detention basins, etc.); the homeowner's associations have to take this responsibility but the Town needs to have enforcement powers and a means to easily handle problems (such as a bank account that the Planning Board can draw on for maintenance if the HA fails to do it).
- The regulations should provide guidance on what we need for town protections and allow the developer to figure out how they want to accomplish it. The guidance should be spelled out clearly through criteria they need to meet.

NEXT PB MEETINGS

February 5, 2014 (joint hearing with ZBA; variance and special permit for two family in RR)

February 19, 2014 (Cumberland Farms major site plan)

**DIMARZIO
KOPACZ**

**MOTION TO ADJOURN AT 8:29 PM
SECOND
ALL IN FAVOR**

<p>Minutes Approved on: _____</p> <p>Starodoj _____</p> <p>DiMarzio _____</p> <p>Urban _____</p> <p>Kopacz _____</p> <p>Knight _____</p>
