

APPROVED MINUTES
Town of Auburn
Planning Board
PUBLIC HEARING
October 19, 2022

Present: Ron Poltak, Chairman. Jeff Porter, Vice-Chairman. Jill Dross & Michael O'Callaghan, Members. Paula Marzloff & Jess Edwards, Alternate Members. Michael Rolfe, Selectmen's Representative. Minutes prepared by Denise Royce.

Also Present: Kenny Magdziarz, Kathy & Rick Clement. Alexx Monastiero

Absent: None.

The meeting was being held at the Town Hall. Mr. Poltak called the meeting to order at 7:00pm and moved on to first elevating Mrs. Marzloff to a full voting member in the absence of Mr. O'Callahan. Mr. Poltak explained that the first item on the agenda tonight is the approval of the minutes. Mr. Poltak indicated that he had a number of changes to the minutes which included clarity and asked for a motion to approve the minutes with the amendments made by him which were unavailable to the Board tonight.

MINUTES

Mr. Porter moved to approve the minutes for October 5th, 2022, as amended by Chairman Poltak. Mr. Rolfe seconded the motion. A vote was taken, and all were in favor and the motion passed.

Mr. Poltak pointed out his dismay over the use of social media relative to posting of unapproved minutes and why they need to be posted prior to approval. Mr. Poltak went on to say that there is a Statute under the Right to Know Law that states that, minutes must be posted within 5 business days of a meeting. Mr. Poltak did not believe 5 days was enough time for minutes to be prepared and then reviewed by the Board approved then posted. Mr. Poltak believed it should allow two (2) weeks. Mr. Edwards stated that he would take it to the legislature. Mrs. Rouleau-Cote commented that, there is a 30-day appeal period whereby an applicant or a party to which is aggrieved can appeal a Board's decision. Mrs. Rouleau-Cote also pointed out that, when the minutes are posted they are posted as being "Unapproved Minutes." A brief discussion ensued with regard to when minutes should be posted.

Next, Mr. Poltak moved on to the discussion with Mr. Magdziarz.

GENERAL BUSINESS

Informal – Francis Magdziarz (Kenny)

Miner Road, Tax Map 9, Lots 5 & 28-1-13

**Discuss Minor Subdivision/Lot Line Adjustment
(more than 25%)**

(See Article 3, Section 3.01(1) Subdivision Regulations)

Mr. Magdziarz was unable to attend and therefore his son was present to have a discussion with the Board regarding a proposal for a Lot Line Adjustment along with Mr. and Mrs. Clement who own property at the end of Cedar Crest Lane. Mr. Magdziarz began by saying that his father owns property in Auburn and an abutter would like to buy a two (2) acre lot adjacent to that property. They are working with Mr. Franklin of Franklin Associates who found out that there is a Rangeway between the two (2) properties. Mr. Magdziarz indicated that they are looking for clarification on what to do next. Mrs. Marzloff believed they would need to visit case law as this was not something that this Board could provide them with. Mr. Magdziarz was informed on a Rangeway definition which is a sliver of land designated for future use or potential use as a roadway! It's not a road, it's not a Class IV highway and it's not anything more than a depiction on a map commonly known as a paper street. Mrs. Marzloff explained that some towns have released all public interest in Rangeway's, but Auburn is not one of them, so their status remains in doubt. A brief discussion ensued with regard to Rangeway's.

Mrs. Marzloff informed Mr. Magdziarz that this was a legal issue and is something the lawyers need to work out. Mr. Poltak asked Mrs. Rouleau-Cote for her opinion. Mrs. Rouleau-Cote began by saying that, the reason they are here is because they knew this was where the conversation would go, and they would probably get referred to legal counsel with an opinion. Basically, there is a process to go through to eventually draft up a warrant article to be voted on in March by the town. Mr. Poltak asked Mr. Magdziarz if he had an attorney that he could speak too. Mr. Magdziarz stated that he did not but that he had a friend but it's not just a simple Lot Line Adjustment. Mr. Poltak was going to suggest that his attorney get in touch with town counsel but given that he does not have one per se that either he or Mrs. Rouleau-Cote would contact town counsel to ask him a generic question of how do we deal with Rangeway's with regard to a resident's pursuit of a Lot Line Adjustment and see where that leads. We can get back to him and he can relay whatever we learn from our attorney. Mr. Magdziarz understood what Mr. Poltak was saying and would await a response.

At this time, the Board took a three (3) minute recess to allow time for Mrs. Rouleau-Cote time to make copies of the documents and plan Mr. Magdziarz had in his possession.

At this time, Mr. Poltak moved on to the next informal discussion on the agenda tonight which was regarding Chinburg Builders.

**Informal – Chinburg Builders
Cliffs at Evergreen
Hooksett Road, Tax Map 10, Lot 19
Discuss Waiver request from 2nd Floor
To Not Have an Elevator**

Ms. Alexx Monastiero presented on behalf of Chinburg Builders and pointed out that she works for Chinburg and also worked with Mr. Joe Falzone who was the original applicant on this project which was approved. Mr. Poltak explained to the Board Members that, we are talking about the 55 and over community and a waiver request from Chinburg Builders has been received by the Board relative to two (2) aspects of our 55 and over Zoning Ordinance and that is a waiver from the requirement that the second floor has an at-grade access; or the second and third floor is served by an elevator.

Ms. Monastiero began by passing out packages showing the floor plans of the proposed homes. All of the plans have first floor primary suites with a bedroom on the first floor and many have half story second floors. Those plans were submitted and reviewed by this Board at the June Planning Board meeting. Ms. Monastiero indicated that, it was an oversight that the elevator requirement for a two (2) story home, so they believed they were good to go. Ms. Monastiero added that, they just began marketing these plans in September and the first week of October and then they received a letter from Mrs. Rouleau-Cote regarding the two (2) story home. Ms. Monastiero went on to say that they are seeking a waiver from Article 8, Section 8.07(8) that states that the second floor has an at-grade access; or the second floor must be served by an elevator (a copy of the waiver can be found within the file). Ms. Monastiero again stated that they would all have a first-floor bedroom with a first-floor bathroom of which all are designed for 55+ living of which people like diversity in the plans with an office and second bedroom on the second floor. Ms. Monastiero explained to the Board how these are being marketed which include two (2) bedrooms and that each unit will not exceed 2,000 square feet of finished space.

Mr. Poltak asked if anyone had any questions. Mrs. Rouleau-Cote wanted to clarify that, if any of these had a full walkout basement, would that be part of their floorplan with first floor and second floor? Ms. Monastiero stated that, they do have a plan that shows the basement but most of the homes do not have walkout basements. There is only a small portion that have walkout basements which are left unfinished. A brief discussion ensued with regard to the basement. Ms. Monastiero again pointed out that it cannot be finished into a bedroom but could be finished as an exercise room or storage space if under the 2,000 square feet maximum. Mr. O'Callaghan recalled it as being a first floor with an unfinished basement and believed that people would finish the basements. Mr. Porter pointed out that the regulations only allow for up to 2,000 square feet of finished space and no more. Further explanation ensued with regard to finished space.

Mr. Poltak wanted to give everyone his interpretation of the request tonight as being, when the Board worked to do their due diligence to develop the ordinance, there were three (3) provisions that they built into the ordinance that would be guiding factors associated with the construction of homes. The first was minimum size is 900 square

feet with the maximum size being 2,000 square feet. The maximum building height to be no more than 35 feet. Mr. Poltak also mentioned that the basement also came into the equation of the 2,000 square foot total finished area. Mr. Poltak also pointed out that, in writing the ordinance, it gave the Planning Board the ability to make changes where necessary and that their vision was that it would be single family homes meaning that there would be two (2) people because the state approved septic systems are designed for no more than two (2) persons per unit. With that said, Mr. Poltak commented that, when he looks at the waiver request and he will put this before the Board but that they would be making their decision respectful of both. Mr. Poltak did not believe that the elevator section should have been included in the ordinance because he believed it should be between buyer and seller and if the seller wants an elevator, then they should be the one requesting one and not the town mandating that an elevator be included and therefore believed that waiver would be an easy one. Mr. Poltak informed the Board that when they are making the motion to grant the waiver for a one story and a half that they include it to be 2,000 square feet maximum. Mr. Porter agreed. A brief discussion ensued with regard to basements being included if they were to finish any portion of the basement that it be included in the 2,000 square foot maximum finished area for each of the homes within the 55 and older community. Mr. Porter talked about three (3) people living in the home and what happens then. Ms. Monastiero stated that it would be stated within the condominium documents, and she also believed that the community would police themselves because if the septic fails that they are all responsible for any repairs to the septic system. Mr. O'Callaghan had a concern of people exceeding the 2,000 square feet when the next people purchase the home.

A discussion ensued with regard to removing the requirement for elevators in a two-story home within the 55+ community regulations as they believed it was between the buyer and seller.

Mr. Poltak asked Mrs. Rouleau-Cote if the builder would have to provide plans for every home, they wanted to secure a permit correct. Mrs. Rouleau-Cote said yes. Therefore, Mr. Poltak stated that, when they submit a building permit to the Building Inspector, they will have to submit a plan showing the square footage to be finished and therefore we would see what the square footage of the building would be at that time to be sure that it stays under the 2,000 square foot requirement. Mrs. Rouleau-Cote pointed out that it would be 2,000 square feet maximum of living space. Mrs. Rouleau-Cote informed the Board that, when she issues a Certificate of Occupancy, she will be comparing the building plans that were presented to her and what is actually in the field. When she goes out for inspections, what she sees should be as submitted. When she issues her Certificate of Occupancy, she will note two-bedrooms and if there is an area of the basement that is finished, her plans and Certificate of Occupancy is going to clearly note that, and it will clearly state that "No modifications to any areas not covered shall commence without the proper permits being pulled." That will cover our end of it but also believed that their condominium documents would cover it as well. Mr. Poltak also believed that all of these homes will be assessed, and that the assessor's card will give you the square footage.

With that said, Mr. Poltak suggested that they take up the waiver request to not require an elevator first and that the Board “move to approve a waiver to provide relief from the requirement in our ordinance relative to mandating elevators.” A brief discussion ensued with regard to the waiver request.

Mr. Porter moved to approve the waiver request to provide relief from the requirement in our ordinance relative to mandating elevators. Ms. Dross seconded the motion. A vote was taken, and all were in favor and the motion passed.

Mr. Poltak moved on to the second waiver request regarding the two-story structures.

Mr. Porter moved to approve the waiver request to the provision requiring that any home with a second floor needs to have an at grade access to allow for two-story structures. Mr. Rolfe seconded the motion. A vote was taken, and all were in favor and the motion passed.

Now, Mr. Poltak wanted to have a motion that both waivers are contingent upon the fact that no home will be built in excess of 2,000 square feet of living space.

Mr. Porter moved to acknowledge that the prior two (2) waivers are contingent upon the fact that no home will be built in excess of 2,000 square feet of living space. Mr. O’Callaghan seconded the motion. A vote was taken, and all were in favor and the motion passed.

In the end, Mr. Poltak thanked Ms. Monastiero and Ms. Monastiero thanked the Board for their time and the discussion ended at 8:11pm.

OTHER BUSINESS

Mr. Poltak informed the Board that he will be going before the Board of Selectmen and the Budget Committee on Monday the 24th and Thursday the 27th with the budget proposal for 2023.

At this time, Mr. Poltak asked for a motion to adjourn.

ADJOURN

Mr. O’Callahan made a motion to adjourn. Mr. Porter seconded the motion. A vote was taken, all were in favor and the meeting stood adjourned at 8:15pm.

The next Planning Board meeting is scheduled for Wednesday, November 2nd, 2022 at 7:00 pm. This meeting will be held at the Auburn Town Hall, 47 Chester Road. This date is subject to change.