

LINCOLN PLANNING BOARD
October 26, 2022
MEETING MINUTES
Approved

The regular meeting of the Planning Board was held October 26, 2022. This meeting was at the Lincoln Town Hall, 100 Old River Road, Lincoln, Rhode Island.

This was an in-person meeting. The public was able to view the meeting in person or by utilizing the web streaming available on <https://lincolnri.civicclerk.com/web/home.aspx>.

Application materials are available on the Planning Department's webpage:
<https://www.lincolnri.gov/181Planning>

Chairman Bostic called the meeting to order at 7:00 p.m. The following members were present: Meagan Bellamy, Jeff Almond, Tom Salvatore, Ken Bostic, Mike Reilly, and Tom Tuytschaevers, Member Ned London was absent.

Also in attendance were Town Planner Joshua Berry and Town Solicitor Anthony DeSisto and Town Engineer Leslie Quish.

CONSENT AGENDA

Chairman Bostic reminded the Board that the Consent Agenda is normally voted on in total unless a member motions to remove an item. Motion by Member Reilly to accept the consent agenda as presented, second by Member Almond. Motion approved by all members present.

4. Minor Subdivision Review

A. Sherman Subdivision	AP 19 Lot 155	Preliminary Plan Approval
Dawn Sherman	28 Woodward Rd.	Extension Request

Town Planner Berry presented the proposed project as per the Technical Review Committee review of October 18, 2022. (Copies provided in packets to the Board.) The Applicant had submitted a request for a one-year extension on September 19, 2022 due to personal issues. The TRC requests the Board to approve the one-year extension on this project extending the approval until October 25, 2023.

There were no comments from the Applicant or the Developer.

The question was raised by if the Board can grant an extension as the previous 90-day approval-vesting period had already expired. The Town Solicitor said the one-year extension request had been submitted prior to the expiration.

Motion by Member Reilly to grant the one-year extension to October 25, 2023, second by Member Almond. Motion approved by all members present.

5. Major Subdivision Review

A. Beauregard Subdivision
LB Corp/Stephen Beauregard

AP 44 Lot 180
East Lantern Rd

Preliminary Plan Approval
Public Hearing 7:00 PM

Town Planner Berry presented the proposed project as per the Technical Review Committee review of October 18, 2022. (Copies provided in the Board's packets.) Town Planner Berry detailed the site plans.

The TRC review is advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions.

On Tuesday, October 18, 2022, the Technical Review Committee (TRC) met to review the agenda items for the October 26, 2022 meeting of the Planning Board. TRC members in attendance were Joshua Berry, Mike Gagnon, Jeffrey Almond, Leslie Quish, Francine Jackson, and Brad Ward. Also in attendance was Planning staff member Peggy Weigner and Engineering staff member Mike Gamage.

Based on the submitted material, the TRC finds that the applicant has successfully addressed the technical requirements of the subdivision regulations for a Preliminary Plan review stage and **recommends that the Planning Board adopt the findings of fact, and approve the application with the following waivers and conditions.**

Waivers:

1. Section 22 Article C (8) to allow a 535 feet extension of the existing roadway in a RA-40 zone.
2. Section Article C (5) to allow a 26-foot wide paved street right-of-way.
3. Section 22.C (7) to allow a cul-de-sac slope of 1.16%.
4. Section 22.C (10) of the Land Development and Subdivision Regulations to allow a centerline radius of 108.2' between Stations 0+00 and 1+23.
5. Section 22.E (5) to allow side lot lines that are not as near to right angles to a street rights-of-way line as practical or in radial arrangement when the street rights-of-way line is a curve.

Recommended Conditions:

1. The applicant obtain and record all legal easements and agreements documenting approval from the property owners of AP 44 Lots 184 and 185 for the private sanitary force main. These shall be provided to the Town of Lincoln for review prior to recording.
2. The low-pressure sanitary force main shall be owned and maintained by the future property owners and a homeowners association shall be established to maintain them. The HOA applicable deed references must be provided to the Town for review prior to recording.
3. Certification by a RI Civil Engineer that the low-pressure force main was constructed in accordance with the approved design and industry standards be provided prior to recording. The force main shall be included in As-Built Plans.
4. All proposed dwelling units shall be equipped with a generator to ensure the sanitary grinder pumps will run during power outages. Verification of generators shall be provided prior to issuance of certificate of occupancies.

5. Certification by a RI Civil Engineer that the drainage system was constructed in accordance with the approved design shall be provided prior to recording.
6. The infiltration basins shall be owned and maintained by the property owners and a homeowners association shall be established to maintain them. The HOA and applicable deed references shall be provided to the Town for review prior to recording.
7. The applicant shall coordinate the abandonment of a portion of the public right of way that will disconnect the public right of way in Lincoln from Clark Road in Smithfield to prevent a possible connection of the roads. An easement shall be provided to the Town of Lincoln and Town of Smithfield for emergency access.
8. The existing portion of East Lantern Road, between 48 East Lantern road and the proposed road extension, shall be improved as detailed on the approved plans.
9. The Applicant shall install landscaping to screen the infiltration basin on proposed Lot 2 from AP 44 Lot 109 prior to recording.
10. If basements are proposed, certification from the design engineer shall be provided during the building permit stage verifying that the basement elevations are above seasonal high groundwater.

Please be aware that this recommendation was made without recognition of the fact that compliance with 260-42(K) has not yet been determined. The required finding on consistency with zoning can only be made when the applicant is in compliance with this section, either through acceptance of the fee in-lieu or with or with a Inclusionary Housing Agreement.

In addition to the above conditions incorporated into the TRC recommendation, the Town Planner recommends including the following conditions:

11. If basements are proposed, certification from the design engineer shall be provided during the building permit stage verifying that the basement elevations are above seasonal high groundwater.
12. On the Final Plan, delete or revise note #9 on sheet 3 of 16 that states “No known wells, (private within 200’ or public within 400’) exist” as there is a well on AP 44 Lot 172.

Stephen Beauregard has owned this property since 1986-87 calling it a “cow path” which ends in a swamp. He does not want Smithfield to have access to this property and traffic coming through. He wants to block that road off. He wants no access whatsoever from Smithfield to Lincoln property.

Attorney for the applicant John Shekarchi introduced Dan Campbell, Project Engineer with Level Design Group, LLC who would give an overview of the subdivision.

Dan Campbell gave a brief overview of the six-lot subdivision.

Attorney Sherkarchi asked Mr. Campbell about the status of DEM in regard to the proposed project.

Mr. Campbell said everything has been in place with DEM since the beginning of the year. Minor modifications have been made over and above the requirements of DEM.

Attorney Sherkarchi said all the approvals are in place.

Mr. Campbell described in detail the basin and buffer per the site plans.

Attorney Shekarchi said a few other issues that the Planner brought up one of which was the affordable component and feasibility to build a house. Mr. Beauregard was asked to speak about the cost of lots and houses.

Mr. Beauregard said these lots will sell between \$325,000.00 and \$350,000.00 and if you want to build a house for \$480,000 and the lot is \$325,000.00 you cannot build a house for \$ 125,000.00 and makes it impossible to build an affordable house

Attorney Shekarchi stated the number is \$63,000.00 plus or minus and rounds up to \$122,000.00. For the record, Mr. Beauregard was ok paying the fee to the Town of Lincoln in the amount of \$75,600.00. Mr. Beauregard's only problem was that at the first meeting it was \$57,000.00 and has now jumped up.

Attorney Shekarchi reiterated that the number is the number and for the record if the Board accepts it Mr. Beauregard should know that he has to pay that amount. Mr. Beauregard agreed.

Attorney Shekarchi related that Attorney Oster, one of the abutters, has a concern that the road goes in tight to her stonewall and the applicant would agree to fix it to her liking if it disturbed.

Town Planner Berry said while on that topic, the condition be worded that if any of the abutting private property is disturbed it will be fixed and therefore will not be specific to only the one lot. Attorney Shekarchi told the Planner he would be more than happy to abide by that.

One of the abutters, Mr. Cavicchio (sp), had some concerns and conditions for the record. One concern being that the land be put back in its original condition, that each home have a backup generator, and lastly wanted clarification of the abandonment. Mr. Cavicchio said all of his concerns and conditions have been satisfied.

Town Planner Berry tells the Board that the report submitted to the Board has some minor changes to the conditions and suggests that the Board go over them one by one.

Motion to open the Public Hearing by Member Reilly and second by Member Salvatore. Motion approved by all members present.

Mr. Spagnole an abutting neighbor to the right says he owns 6.3 acres of pasture and purchased this property in 1986-87. He has maintained the pasture. He says that Mr. Beauregard in preparation of the subdivision in 2020 clear-cut and his property became flooded and never flooded in the past. He presented pictures to the Board for the record. He wanted assurance that this will not happen again and would like a buffer zone along the chain link fence.

Laura Delatorre (sp), an abutter, residing at 33 Greenwood Lane raised the question that if the triangle is added to the fifth lot in Lincoln, wouldn't the four (4) acres in Smithfield that Mr. Beauregard owns be landlocked. Mr. Beauregard said you could not put a road through that property.

Town Engineer Quish and Mr. Campbell described in detail the area in Smithfield. It is not approved frontage but it is legal frontage.

Chairman Bostic asked any abutters who would like to speak to come forward.

Charles Cavecchio (sp) a resident of 25 Greenwood Lane, an abutter, requested the force main pumps have backup generators and a second line and said Mr. Beauregard had agreed.

Sarah Oster Kelly, a resident of 54 East Lantern Road, said that before the development is finalized all landscape and hardscape be restored to original state.

Motion to close the Public Hearing by Member Reilly, second by Member Salvatore. Motion approved by all members present.

Mr. Campbell said there is wetlands and that they would plant 5' arborvitae right along the berm. There could be three or four planters along the front of the basin.

Chairman Bostic wanted to know if Mr. Campbell and Mr. Beauregard agree if this proposed project were to create any addition runoff on to someone's property that they would be legally responsible. Mr. Campbell answered that they have gone beyond the DEM approvals and there that will not be any increase of water added to the property that there already.

Chairman Bostic asked Mr. Campbell to explain why you could not go to a grassy area for the retention pond. Mr. Campbell stated that it is grass.

Mr. Campbell explained to the Board in detail the difference between an above ground and a below ground basin.

Member Salvatore asked Mr. Campbell in his professional opinion, what is the better system to mitigate the water in this set of circumstances. Mr. Campbell said neither one of them is better than the other. However, in this situation, the water dissipated a little bit faster.

Member Salvatore said The Preliminary Plan and the Master Plan, for the most part is after the project is finished and wanted to know when the tractors and bulldozers come in, and there is a storm that creates other problems, what is the plan to mitigate. Mr. Campbell stated that they have a stormwater sediment erosion control plan in place with DEM. Mr. Salvatore wanted to know if the Town Engineer has those plans. Mr. Campbell said Town Engineer Quish have the plans and in addition, they are in the packets as part of the application. Member Salvatore asked Mr. Campbell what his answer to Mr. Spagnole was when he said the property never flooded at the time. Per Mr. Campbell, the area that he was shown pictures of is the current wetland. In addition, as far as wetlands go, water may never pool in a wetland area or it may pool because there is storm after storm. It is possible that an area that never had water could have water.

Mr. Spagnole came to the microphone to state that the water is additional water; he never had water in forty years. Chairman Bostic will ask the Developer to definitely take the next step and show the Board what is going to be put in for trees. And that if Mr. Spagnole gets any runoff in the meantime when the construction starts to call the Town and let the Board know so he can be stopped. Mr. Spagnole wanted to know if there was a setback ordinance as to how close the retention pond can go

to his property line. Town Solicitor DeSisto advised Mr. Spagnole that setbacks are for structural, i.e., barns, sheds and thing of that nature.

Motion to include the Mr. Spagnole's pictures in the record by Member Tuytschaevers, second by Member Reilly. Motion approved by all members present.

Attorney Sherkarchi requested that with agreement of the Board; that the final be delegated to the Administrative Officer.

A lengthy discussion began between the Board, Attorney Shekarchi and Staff regarding the abandonment/easement of the pie-shaped roadway. DPW Director Mike Gagnon had requested that the applicant apply for an abandonment of a small portion of the right of way in order to close off future connection to Smithfield. Town Planner Berry conveyed the DPW Director's rationale for the abandoning the 370 ft² piece of the right of way would be a precautionary measure to prevent a public road connection to Smithfield. He said the DPW Director's main reason for the requesting the abandonment is that East Lantern Road is substandard in width and therefore unsuitable for increased traffic volumes. The Town Planner Berry presented comments from the Planner and Fire Department in Smithfield suggesting that the road remain open for potential connection and to ask that if the road is abandoned that an easement be provided for emergency vehicles. Town Planner Berry said there are wetlands and streams separating the proposed development from Smith & Clark Road. Chairman Bostic asked if it dead-ended. Town Engineer Quish responded "no" and described the roadway detailing the connecting Smithfield streets. Town Solicitor DeSisto said it is not clear on the map as to where Clark Road is exactly. Town Engineer Quish points out on the area on the map and describes the abandonment area and the purpose of the abandonment; saying that emergency vehicles only would be allowed access. Currently there is no connection there and Engineer Quish has no plans to make one that she is aware. Town Solicitor DeSisto said that the project application could go on, as it is not tied to the road abandonment/easement.

A lengthy discussion ensued regarding the abandonment; where it would connect, how the process worked, how the easement would work, who wanted and did not want the abandonment and/or the easement, etc. After the discussion, the Board agreed not to move forward with the road abandonment or the easement as part of the Beauregard subdivision.

The Board discussed the affordable housing component of the Beauregard application. The Board agreed to accept a fee in-lieu in building the affordable units. Chairman Bostic says the fee in-lieu of is a work in progress and does not think the Board can hold up the project The Lincoln Town Ordinance may be in conflict with RIGL 45-24-46.1 (c)(1). Where Lincoln's ordinance conflicts with the statute, state law governs.

Chairman Bostic asks if the lighting has been resolved. The Planner said it has been resolved. Engineer Quish details the lighting. A Member asked to speak to the basements issue. The Planner detailed the basements from the recommended conditions.

Town Planner Berry recommended that the Planning Board adopt the findings of fact and approve the application with the following waivers and conditions adapted today one by one as a topic for or however the Board wanted to proceed. The Planner read the waivers 1 through 5. Planner Berry asked if there was any discussion on the waivers that were read before he read the recommended

conditions. Chairman Bostic stated the Board was good with the waivers. The Planner then read each recommended condition and made edits to the document based on the discussion.

Motion by Member Reilly to adopt the findings of fact presented in the staff memo, and approve the Preliminary Plan with the waivers and conditions as enumerated in the staff memo, as amended during the public hearing, second by Member Almond. Motion approved by all members present.

Motion by Member Reilly, second by Member Salvatore to delegate the final plan to the Administrative Officer.

B. McManus Subdivision	AP 21 Lot 70	Master Plan Review
Daniel C. & Deborah McManus	552 River Road	

Town Planner Berry presented the proposed project per the Technical Review Committee review dated October 18, 2022. (Copies provided in packets to the Board.)

TRC Recommendation*

*The TRC review is advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions.

Based on the submitted materials and the discussion during the meeting, the TRC finds that the applicant has successfully addressed the technical requirements of the subdivision regulations for a Master Plan review stage and **recommends the Planning Board schedule the master plan application for a public informational meeting at the November 16, 2022 Planning Board meeting.**

Attorney for the applicant said everything has already been said. Preliminary for the wetland has been submitted however they have a backlog right now.

Chairman Bostic asked if they are looking to add a lot at the bottom with a new property line. Attorney for the applicant stated nothing would be changed. Chairman Bostic asked if there was a reason why Lot B cannot be squared up. The Attorney stated he just wanted to soften the angle. He said if the Board preferred it squared that is not a problem. Chairman Bostic wanted to know if it are making the situation worse. The Attorney stated that it is not making the situation worse.

Discussion ensued between Board members, Staff and the Attorney to decide if additional curbing and/or sidewalks are needed connecting the existing curbing and sidewalk on River Road up to the guardrail on Dexter Rock Road. Town Engineer Quish said installing curbing impacts a road and causes a patch and she would not want that. Dexter Rock Road would be compromised if curbing is installed, and then the Town would require the applicant to repave the road curb to curb. Board member asked the Solicitor if the Town would be liable if no curbing was installed. The Solicitor's stock answer is no. Chairman Bostic thought there should be curbing. Town Planner Berry reminded the Board that they did not need to resolve the matter this evening and only had to schedule the public informational meeting.

Motion by Member Almond, second by Member Reilly to move the application to a public informational meeting in November. Motion approved by all members present.

Review of the Minutes

Motion to dispense with the reading of the September 28, 2022 minutes by Member Reilly, second by Member Almond. Motion approved by all members present.

Motion to accept the minutes of the September 28, 2022 minutes as corrected by Member Reilly, second by Member Almond. Motion approved by all members present.

Planner's Report

Town Planner Berry discusses items a) through f) as listed on the Planning Board agenda with the Board.

Adjournment

Respectfully submitted,

Elizabeth A. Gagnon
Secretary to the Planning Board