



# TOWN OF SWAMPSCOTT

## PLANNING BOARD

ELIHU THOMSON ADMINISTRATION BUILDING  
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

**MEMBERS**  
ANGELA IPPOLITO, CHAIR  
GEORGE POTTS, VICE CHAIR  
NEW GUY  
BILL QUINN  
DAVID ZUCKER

**STAFF**  
MARZIE GALAZKA, DIR. OF COMM. DEV.  
MOLLY O'CONNELL, SENIOR PLANNER

# JULY 8, 2019 MEETING MINUTES

**Time:** 7:04 P.M. – 9:58 P.M.  
**Location:** Swampscott High School, Room B129, 200 Essex Street  
**Members Present:** A. Ippolito (Chair), D. Zucker, B. Quinn, M. Proscia, G. Potts  
**Members Absent:** None  
**Others Present:** Naomi Dreeben (Select Board Member), Rich Williams (Engineer), Geraldo Raffaele (Petitioner), Stephen Rose (Resident), Kimberly Martin-Epstein (Affordable Housing Trust Chair) ...Molly O'Connell (Senior Planner),

A. Ippolito called the meeting to order at 7:04 P.M.

### 1. Review and approve minutes – June 10 minutes.

MOTION: D. Zucker to approve the meeting minutes from June 10<sup>th</sup>. Seconded by B. Quinn; approved 4-0-1. G. Potts abstained as he was not present for June 10<sup>th</sup> meeting.

A. Ippolito notes that meetings from 2018 are almost done being transcribed and will be on the agenda for August for Board to review and approve.

### 2. ERAC Appointment

The Earth Removal Advisory Committee (ERAC) is looking for a new appointment from Planning Board; G. Potts had previously served on the committee. They meet about 4 times a year. Their biggest annual application is the Aggregate Industries Quarry. M. Proscia volunteers to serve.

MOTION: A. Ippolito to appoint Mike Proscia as newest member/Planning Board representative to the Earth Removal Advisory Committee. Seconded by D. Zucker; unanimously approved.

## PUBLIC HEARING: DEFINITIVE SUBDIVISION PLAN

19SUB-2

134-140 EASTMAN AVE

Relative to Swampscott Subdivision Rules & Regulations and Zoning By-Law, the Planning Board of the Town of Swampscott will hold a public hearing at the request of GERALDO RAFFAELE, for the property located at 134-140 EASTMAN AVENUE (Map 17, Lots 6A, 6C & a portion of lot 6B), Swampscott, MA. The hearing will review the application of a DEFINITIVE PLAN for the subdivision of the property into 2 individual lots and to be served by a new roadway having a length of approximately 144.25 feet. The project (file #19SUB-2) includes the proposed construction of 2 single-family homes, one per lot.

The property owner, Geraldo Raffaele, and the project engineer, Rich Williams, were present to speak on the project. The proposal is to create a new edge of roadway at the end of Eastman Avenue, which currently dead ends, to provide clearance for an emergency vehicle turnaround and frontage for the two proposed single-family home lots. The proposed lots will also conform to Zoning regulations in terms of lot size and setbacks, and Mr. Raffaele stated the homes would be less than 3,000 sf. The petitioner plans to install a subsurface infiltration system between the new portion of road to handle runoff from the new paved area. Infiltration units to handle runoff from the rooftops will also be installed on each lot. The petitioner provided a stormwater management report showing that, with these measures, runoff will not increase on site.

G. Potts asked if sidewalks would be installed. The applicant replied no, they were not planning on it as the existing street does not have sidewalks or the necessary width to accommodate them.

G. Potts asked about the utility pole currently located off-road but in the future road location. Mr. Williams responded that they will work with the utility company to relocate the pole.

A. Ippolito pointed to the wetlands at the rear of the property. Mr. Williams indicated the wetland area on the presentation sheet and confirmed they do have work in the 100-foot buffer zone which includes part of lot 1 and most of lot 2. They have submitted a separate application to the Conservation Commission for a Notice of Intent. The work in lot 1 will have very little impact, and the proposal for Lot 2 includes proper setbacks and erosion control measures.

A. Ippolito pointed to the unusual circumstance happening – which is the Planning Board and Conservation Commission meeting on the same night. Timing issues meant that rescheduling for either was not an option and the Chairs have been in communication. Mr. Williams noted that staff had raised that concern and the applicant is amenable to continuing, either here or at the Conservation Commission, in order to address concerns brought up.

A. Ippolito also brought up the Hanover at Vinnin Square apartments which, as part of the approval, required portions of lots along Eastman Ave to be designated as green/open space to meet the requirements. The current shape of these parcels reflects the ANR's that subsequently went before the Planning Board.

Although the applicant has provided a stormwater report, A. Ippolito and G. Potts have concerns about the change in water flow created by new impervious surfaces. Mr. Williams responded that their charge is to mimic the existing conditions by creating a situation where the same amount of water goes into the ground, in this case in the infiltration systems. There is a separate infiltration system to service the new roadway area; the basins located behind the proposed houses will catch roof runoff and three separate systems ensures that one won't be overloaded. All of this information is put into a model to produce the rates of runoff pre and post development.

Mr. Raffaele spoke to the decision to create a portion of new roadway and how it will assist Fire and DPW vehicles who currently have to back down the road as there is no turnaround area. He spoke to the Fire Chief about the hammerhead turnaround.

A. Ippolito asked the petitioner to clarify the exact dimensions of the turnaround. Mr. Williams replied that side-to-side measurement is approximately 103 feet and the radius is 50 feet, which is what is required for EMS vehicles.

A. Ippolito noted that new houses under 3,000 sf in this A-2 Zoning District would not have to go through the site plan process.

The Board asked Mr. Raffaele whether or not he had spoken to abutters. He replied that he had spoken to the neighbor next door, but it was a while ago.

B. Quinn asked if the two lots across the street are also a part of the original Hanover at Vinnin Square proposal and therefore not able to be subdivided. A. Ippolito affirmed.

G. Potts noted there is significant ledge on the lot, but the proposed house locations avoid it.

M. Proscia noted that one residential catch basin is located particularly close to the ledge. Mr. Williams responded that it will be raised above it.

A. Ippolito opened the hearing for public comment.

Naomi Dreeben, Select Board member and Precinct 4 resident, had questions about the buffer zone. Mr. Williams replied that any work in the buffer zone needs a permit from the Conservation Commission, which they have filed.

D. Zucker asked if the petitioner had done an environmental impact report. Mr. Williams replied that their NOI filing included everything required by the Conservation Commission to file.

A. Ippolito asked if there would need to be any blasting done on Lot 2 to build the house foundation. Mr. Williams replied no, he did not think they would need to blast because the proposed basement will not be below ledge. The proposed sub-floor is 5 feet above the existing ledge. G. Potts and Mr. Williams discussed the cellar, which will be a walkout basement.

Stephen Rose, resident of 137 Eastman Ave, asked about the proposed timeline for construction and what the neighbors could expect. Mr. Raffaele responded that, if permitted, he is thinking 6 months from start to finish. They would put in the road first and then frame the houses. Interior work would take place during the winter.

A. Ippolito asked if there are currently sidewalks on Eastman Ave. Mr. Raffaele responded no, and the roadway itself is a non-conforming width so there is no room to add them.

B. Quinn asked about the proposed sloped granite curb. Mr. Williams responded that they need to install a curb to collect the water runoff, so there will be a curb but no sidewalk.

A. Ippolito asked if there was any access from this property into the back of the Hanover apartment. Mr. Raffaele replied no, the grade of the ledge and a fence currently exist. A. Ippolito noted that it is unfortunate there is no pedestrian access between the apartments, Eastman Ave, and Whole Foods located across Paradise Road. Additional pedestrian connections in this area should be considered for the future.

A. Ippolito asked Mr. Rose if he experiences any issues with runoff currently. He replied no.

A. Ippolito and Mr. Williams discussed the new road parcel proposed which creates more impervious surface on site. The application would need to abide by the materials marked on the plan and submit an as built to DPW. There would also most likely be a performance bond. DPW staff comments also include requirements for the owner to maintain all shown stormwater and separator systems.

A. Ippolito asked if the new portion of road will be private or public. If it is public, it would need to be accepted at Town meeting. Mr. Raffaele responded that it would be private. This may affect trash service as it would need to be picked up on the public portion of the roadway, however in all likelihood the garbage trucks will use the new area to turnaround instead of backing down the hill like they currently do.

A. Ippolito noted that the biggest concerns are environmental issues and building fatigue. The neighborhood is heavily developed around that particular wetland area. The subdivision process is not necessarily the issue, but the construction of new housing is. It is a good thing the applicant is only looking to create two new structures.

Mr. Raffaele noted that at one time this area was filled in with construction debris from other sites, which they will clean. The lots themselves are greater than 30,000 square feet and they intend to keep as many trees as possible.

D. Zucker asked if there would be traditional grass backyard areas. Mr. Raffaele responded up to a point, where the limits of disturbance line is marked on the plan.

D. Zucker noted that while there are some environmental issues, the Conservation Commission will be looking at this through the NOI process. Mr. Williams noted that if the Conservation Commission requested any changes, then the applicant would come back to the Planning Board.

A. Ippolito led the Planning Board through the Definitive Subdivision Plan checklist:

- Staff Comments: The Board received comments from DPW and the Fire Department, which have been addressed during the discussion.
- Suitability of Land:
  - No comments were received from Public Health, but the Board has determined that the land is suitable for single-family residential purposes.
- Suitability of System of Ways:
  - All ways shown on the plan conform to the Master Plan (where it applies) – Yes
  - Ways are continuous, in alignment with existing ways, create convenient system with adequate connections for free circulation of vehicular travel – Yes. The street currently ends at Hanover Apartments. The Planning Board noted that they'd like to look at future improvements to walkability in the area.
  - Is adjoining property subdivided? – No - property adjacent (between Eastman and Hanover Apartments) was an ANR approved in 2016 and under conditions from the Hanover development is not able to be subdivided.
  - Cul-de-sac and dead-end – must terminate with a circular turn-around with exterior line radius of at least 50 feet – Yes.
  - Cul-de-sac and dead-end – street length should be no more than 500 feet (unless Board agrees topography necessitates greater length) - Yes.
  - System of ways provides space for two tiers of lots between longitudinal ways – N/A
  - Street curves have minimum radius of 100 feet at the center line (unless Board approves otherwise) – N/A
- Width and Grade of Ways
  - Street width must be at least 44 feet – N/A – dealing with a non-conforming existing street width.
  - Minimum gutter grade must be 1.0% - Yes.
  - Maximum longitudinal grade must be 6% - Yes.
  - Transitions of longitudinal grade of all ways provide adequate sight distances via vertical curves of sufficient length – Yes.
- Intersection of Ways
  - Intersection at 90-degree angles? – N/A, no intersections.
  - Number of ways converging at any one point kept to a minimum – N/A
  - Intersection must be rounded with a curve at each corner (radius of at least 30', unless Board approves otherwise) – N/A

- Compliance with Zoning By-Law – the Planning Board chair noted that full compliance will also be contingent upon decision of Conservation Commission
  - Lots in plan comply with requirements and intents of the Zoning By-Law – Yes.
  - Consistent with the need to minimize flood damage – Yes, contingent upon Conservation Commission.
  - Adequate drainage provided to reduce exposure to flood hazards - Yes, contingent upon Conservation Commission.
  - Adequate drainage provided so as not to increase exposure to flood hazards of adjacent lands - Yes, contingent upon Conservation Commission.
  - If subdivision causes increase or change in water surface draining, has developer secured drainage easements off the site of the subdivision – N/A as the current plan is to drain on site with proposed subsurface systems.
- Easements
  - Easements for future development of water/sewer systems shown in plan (if required by Town Engineer) – Yes
- Parks, Playgrounds, and Preservation of Attractive Features
  - Parks within subdivision are suitably located and sized for playground/recreation uses or for light and air – N/A
- Proposed Development of Applicant’s Other Contiguous Land
  - Applicant has furnished sufficient data to enable Board to relate the proposed subdivision to the Applicant’s remaining land – N/A
- Boundary Marks and Monuments
  - Suitable boundary or location marks have been installed – Yes
  - Markers installed at intersections of the center line tangents of the proposed way(s) and intersection of the center line of a proposed way with another proposed or existing way – Yes
  - Town Engineer has outlined locations for permanent markers - Yes

A. Ippolito asked if there were any other comments or questions.

George Delegas, 5 Gooseneck Lane, asked if the applicant was planning to put up a fence in between the properties. Mr. Raffaele said they are not planning to, although the future owners would have the option. Mr. Delegas also asked if it was possible to move the houses closer to the street to match other houses in the neighborhood. A. Ippolito responded that the applicant has to comply with the required front setback.

Mr. Delegas stated that building single-family houses is preferable to any multi-family structures on this property.

A. Ippolito stated that much of the approval will be contingent upon the Conservation Commission decision and there may be some adjustments. She asked if the applicant was planning on clearing the lots prior to receiving building permits. Mr. Raffaele responded that he wouldn’t take any action until the building permits were approved.

A. Ippolito closed the public hearing.

M. Proscia asked about the process for clearing the land, which would ultimately be approved by the Conservation Commission. Mr. Williams replied that the Conservation Commission would issue an Order of Conditions with a list of things the developer would need to do prior to starting work, set the limitations of work, and timing for inspections throughout the process.

M. Proscia asked about the restrictions on future landowners. Chair Ippolito responded that the covenant would run with the land and the Conservation Commission oversees any work done in the buffer zone.

MOTION: A. Ippolito to approve the subdivision 19SUB-2 at 134-140 Eastman Avenue (MAP #17, Lot 6A, 6C & a portion of lot 6B), contingent upon Conservation Commission approval of Notice of Intent, and with a fully executed covenant and a bond requirement that will be prepared and delivered by the Department of Public Works and the Building Department. Seconded by G. Potts. Unanimously approved.

## **PUBLIC HEARING: PROPOSED AMENDMENT TO THE ZONING BY-LAW**

*Relative to Swampscott Zoning By-Law the Planning Board of the Town of Swampscott will hold a public hearing to review the proposed Amendment to the Zoning Bylaw Section 4.8.7.0. Fees-in-Lieu-of Affordable Housing Unit Provision to change the method for calculating the amount of the Fee-in-Lieu payment to the Affordable Housing Trust and the timing in which such payments are scheduled to be made. This amendment will clarify and make more specific the means by which a payment in lieu of units would be calculated. The proposed Zoning Bylaw Amendment will be added to the Town's Fall 2019 Town Meeting warrant and will require 2/3 majority vote for approval.*

Kimberly Martin-Epstein, Chair of the Affordable Housing Trust, was present as well as Naomi Dreeben, trustee and Select Board member.

Ms. Epstein presented on the proposed changes, which are to the section of the Inclusionary Zoning by-law that dictates how payments to the trust are calculated and when scheduled payments should occur. These changes are a result of practical application when two projects came to the Trust under the current by-law and the Trustees ran into issues implementing the current regulations when faced with two very different projects. These changes provide additional clarity and direct guidelines for future projects.

The Massachusetts Department of Housing and Community Development annually publishes a qualified allocation plan with a per unit development cost, an average that encompasses renovations to new construction, as a maximum number. The Trust is proposing to change the fee-in-lieu calculation to be 75% of the most current total development cost number. It is more beneficial to the Trust to work with the DHCD number as it is based on annually updated research based on standardized data. Additionally, the edited language allows for the Trust to increase or decrease the fee-in-lieu at their discretion.

D. Zucker asked if the total development cost as published by DHCD is higher than what the Trust thinks an affordable unit would cost to develop. If not, wouldn't all developers choose to go with the 75% fee-in-lieu as opposed to building the units? Ms. Epstein replied that if the Trust and the developer are talking about fee-in-lieu, then it has already been determined that delivering units is not appropriate. The By-law prioritizes the delivery of units with the provision for certain circumstances where they would not work. So, the calculation of payment is a separate decision from the decision to do a fee-in-lieu.

D. Zucker asked if the determination to assess 75% of the DHCD cost was because the Trust feels it is a sweet spot? Ms. Epstein replied yes. Since the total development cost is so high, the Trust wanted to ensure that assessment was reasonable. Ms. Dreeben also mentioned that it was a balance between maximizing affordability for both housing costs and for the developer.

Ms. Epstein also noted that the DHCD total development cost is a defensible number. Additionally, the new payment question is designed with equity – payments are split into two parts, although the Trust still has the ability to make a final determination if other arrangements are needed.

The Board and Ms. Epstein had a discussion of the merits of the proposed language and allowing the fee-in-lieu option versus requiring all developers to provide units on site. The latter is not recommended as not all developments are suitable for affordable units.

G. Potts questioned why the fee is not based on the market price of the units. Ms. Epstein replied that the Trust needs to come up with a fee prior to the project being built, and this new number is a defensible number. She explained that they looked at a number of methods, including basing the fee on the specific project development cost, however applicants were not comfortable with releasing their numbers and, if released, the verification process would still be difficult for the Trust.

D. Zucker asked about the payment schedule and clarifications on permits, as permit names can be different from town to town. Ms. Dreeben replied that the Trust went with the labels that Swampscott uses, and the language was further refined by Town counsel.

A. Ippolito commended the work the Trust has put into the by-law update.

D. Zucker asked if any other communities have such a straightforward approach to their inclusionary zoning process. Ms. Epstein replied that each municipality is different and what exists (and is amended) in the by-law is based on the culture of the community and their own experiences. The Trust's recent experiences have led to this proposed change.

B. Quinn asked if the rate changes or if it is a flat rate. Ms. Epstein replied that the rate changes only to the extent that DHCD publishes a new total development cost annually, based on their analysis. The total development cost is based on a per square foot breakdown on a range of project types.

The Board and Ms. Epstein had a discussion on the merits of charging more of a fee per unit for a certain type of project – for example, luxury housing – by basing the fee on the per unit cost of the specific development project. Ms. Epstein pointed back to the fact that it is harder to assess that fee per project in a fair and defensible way; the Trust does not have a good methodology for determining the base numbers developers are using if they are not fully provided. Additionally, the job of the Trust is not to disincentivize higher end development, but to ensure that all development is contributing to providing affordable units, whether that is through the creation of units or through the fee-in-lieu program. Affordable units are not necessarily appropriate in every development, which is why the fee-in-lieu option exists. The fee amount itself is aimed at a reasonable amount for developers to provide, should the Trust determine that the fee-in-lieu option is appropriate.

M. Proscia asked that if this proposed language had been in effect during the last two years, would the Trust have additional funding from those projects. Ms. Epstein replied yes, the Trust would have gained at least 200,000 per project.

D. Zucker asked if the DHCD number will continue to increase. Ms. Epstein replied yes, the only potential drop would be if there was a sudden drop in construction pricing, although that is not likely. She reiterated that the Trust decided to use 75% of the DHCD total development cost amount as it reflected a reasonable number.

Planning Board members advised Ms. Epstein on how to present the article at Town Meeting.

The Board wrapped up with a few final comments:

- B. Quinn and A. Ippolito spoke to the Planning Board's role in the process, which is not to get involved in the financing but to approve the Inclusionary Zoning By-law and appoint the Trust.

- G. Potts reiterated that he thinks the fee-in-lieu payment should be proportional to the construction project value and timing pushed out to baseline occupancy.

MOTION: A. Ippolito to recommend favorable action when this Article appears on the Town Warrant. Seconded by D. Zucker; unanimously approved.

## **OTHER BUSINESS TO PROPERLY COME BEFORE THE BOARD**

Staff brought a question to the Planning Board about a site plan petition for new signage that was received, but due to scheduling issues would not be able to be heard by the Zoning Board of Appeals (ZBA) in August since their meeting is scheduled before the Planning Board. After discussion, the Planning Board articulated that they should always vote on site plan applications and the ZBA should be careful when scheduling. They may possibly consider switching the process if the ZBA could approve the petition subject to Planning Board recommendation(s). Staff will reach out to the ZBA Chair to discuss the possibility.

The Board had a discussion on the benches located at Kings, Phillips, and Fisherman’s Beach. It is unclear whether these were donated gifts, which would need to be accepted by the Select Board, or another project entirely which seems like it did not go through any type of public process. Chair Ippolito would like to determine what process the benches went through, and after thorough discussion with other board members, will do so as a resident and not in an official Board capacity. She will report back to the Board any findings.

D. Zucker gave a short update on the activities of the School Building Committee. They are working on hiring an owner’s project manager. Site selection has not occurred yet. Chair Ippolito stated that Phillips Park may be in the running, which she does not support.

Motion to adjourn meeting by D. Zucker, Seconded by B. Quinn. Unanimously adjourned at 9:58 p.m.

Molly O’Connell  
Senior Planner