

TOWN OF SUTTON
Planning Board
Pillsbury Memorial Hall
Meeting Minutes
June 4, 2014

Present: Planning Board Members: Carrie Thomas, Chairperson; Carole O’Connell, Peter Blakeman, and Bob DeFelice, members; (Julie McCarthy, and Roger Wells, members, were absent); Dan Sundquist, Ex-Officio; and Laurie Hayward, Land Use Coordinator (LUC) and Peter Moulton, applicant, and Mike Moulton and Thomas Schaumburg, interested members of the public.

The meeting was called to order at 7:00 PM, by Carrie Thomas, Chairperson.

Administrative:

Minutes of previous meetings: Blakeman moved the minutes of the meeting of April 22, 2014 be approved; DeFelice seconded the motion and it was voted unanimously.

Preliminary Consultation: The Chair opened the Preliminary Consultation with Peter Moulton of Moulton Landscaping. The Chair asked the applicant to step forward. Peter Moulton and his brother Michael Moulton stepped forward. Peter Moulton explained that he had received a cease and desist letter. His property is at the end of Shaker Heights which is a private road off Shaker Street. He further explained that it is very well protected, wooded spot and this time of year is not easily visible. There are no signs to advertise they are there and there is no retail presence that would draw people to his business. Blakeman asked about employees and vehicle traffic, Peter explained that he and his brother and eleven employees all go to the site on a typical day. Moulton explained that there was a complaint from a neighbor. There is a 1.5 acre parcel at the end of the road which is commonly owned by the five property owners on Shaker Heights. There is a parking area there and one owner does see the vehicles parked there and coming and going. He understands the neighbor’s feelings. O’Connell asked how long the neighbor has been there. Moulton answered 5 or 6 years. O’Connell asked if the recent complaint is the first. Moulton said that it is. Blakeman asked how long Moulton had owned the property. Moulton purchased the property in 2001; built shop in 2002; built his house in 2005; and started the business in 2003 with the two brother and 3 employees and 3 trucks. The business has grown. Traffic begins when employees arrive and then drive away from the site. During the summer months the days are much longer than in winter when they are not snowplowing and they are sometimes beginning their summer business days as early as 3 AM.

The Chair asked if the property is adequate for all of their trucks. Peter Moulton said that it is. Blakeman asked if there was room for the employee trucks on the property. Moulton replied that there was not unless he did some clearing. It is the employee vehicles that are parked on the common drive and some of his employees do park at the far end where his property meets this shared area. There is a neighbor at this end that has asked that his employees give adequate space for entrance to and exit from that property owner’s driveway and he does instruct them to do so. Moulton said that he did speak with employees to ask they limit the area that they park in and he also spoke with the neighbor. That neighbor did not realize that the 1.7 acre common land was, in fact common land for the use of all of the abutters to the private road. Moulton further stated that on learning that, the neighbor told him that she was no longer concerned. Moulton showed a map of the lots adjacent to the private road, Shaker Heights and explained that the properties off Shaker Heights all have a right of way to a small circle at the end of the cul-de-sac. Sundquist commented that the issue seems to be that the company has grown well beyond it original operation. He pointed out that, from his point of view, the first thing; because the town does not have commercial zoning is to get ZBA approval. The LUC confirmed that Moulton would have to have a Special Exception from the Zoning Board of Adjustment to allow him to have a business at that site and then the Planning Board could take up a Site Plan Review. Sundquist suggested that Moulton move to complete a Site Plan Review Application as soon as possible. Sundquist, as Ex-Officio for the Select Board told both Moulton and the Board that the Planning Board knows about the good faith effort with the Land Use Boards and has relaxed the requirement for

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action to allow the Board to consider the case- so it the case does not have to be heard immediately.

The LUC explained that she may have attempted to move too rapidly to keep this case moving recognizing that there are vacations coming up and that getting quorums can be difficult and so made an effort to push the process and set a close up date for a joint meeting. She noted that when Peter Moulton looked at the requirements for the Site Plan Review Application he expressed some concern to her about the time to put the application together and was hoping for guidance this evening. Sundquist asked about ZBA requirements for application. The LUC explained that the ZBA application require less in the way of detail than the Site Plan Review. There was a discussion about whether it made sense to press the applicant to complete the Site Plan Review Application in time for a joint meeting on June 18th. Sundquist asked Moulton what his concerns were about completing the Site Plan Review Application. Moulton replied that he was not so much concerned with the application as he was with the fact that he does not have the time in this his busiest season.

Sundquist pointed out that the business has been operating for years with no complaints that the Select Board was aware of until just recently. Sundquist asked when ZBA takes this appeal up. The LUC explained that ZBA takes it up on June 18th. Blakeman suggested that the case go to the ZBA first and that the Planning Board take this up later once Moulton has had more time to complete his application. Sundquist asked what time the ZBA hearing would be and the LUC said that the meeting is planned for 7 PM.

There was a brief discussion about abutters to notice and it was agreed that, although there are only three properties that share a property line with the property in question, the fact that there is a shared driveway and common land would indicate that the other two abutters should be noticed as well. Moulton did explain that all of the owners on Shaker Heights are aware of the business and additionally that Moulton Landscaping does all of the maintenance, grading, and plowing of the private road for the benefit of all of the property owners.

The Chair asked if there were plans for a garage. Peter Moulton explained that he already has a garage on the property that was built in 2003. He told the Board Members that he applied for a building permit from the town at the time and that they knew it was a business and the only thing that they told him was that he could not sell retail. Moulton said that there were nothing said about employees or growth or anything else. So he built on the site with the assumption that he did not need to do anything beyond obtaining a building permit.

Regarding completion of the Site Plan Review Application, Sundquist suggested that the applicant provide drawings of the site and photos. Sundquist told the applicant that it would be very good if the abutters were at the Public Hearings. Blakeman asked about septic system size. Moulton explained the septic system is for the house and he does not provide bathrooms for employees. There is no bathroom or septic for the shop/garage. Employees generally arrive in the morning, pick up a truck and then drive to work sites and the trucks do not come back until the work day is done, usually 5 PM. Blakeman explained to Moulton that his site plan should include information on parking. Moulton asked if he could use the same plan that he was showing as documentation for the Application. Blakeman replied that he should go through the "Checklist" and then redraw to provide a good detailed plan. Sundquist suggested that he could trace the plan and then draw in the necessary detailed information. Moulton noted that he can draw plans. Sundquist added that the plan can be fairly simple; but, it must be realistic and he should give good distance information/measurements. He added photos are good, for example a shot from the cul-de-sac and a couple of photos from around the house and shop. The chair added that he should get a shot of the parking area. Blakeman also suggested that he complete waiver requests for anything that he did not feel made sense for him to provide. The Chair mentioned that he might consider what might happen as the business continues to grow in the coming years. Sundquist also suggested that Moulton think about what would be needed and be able to describe, for example in the way of parking or storage capacity, what might be needed for growth in the business over the next three years. Sundquist asked if he has resolved issues with the neighbor who was concerned. Moulton said that he had. Sundquist suggested that he see if abutters would be willing to be at the meeting and support his request. The Chair asked if the Moultons could be at a June 18th meeting. Mike Moulton said he could not; Peter Moulton said that he could. He said that he would let the LUC know if he could not make it.

This ended the Preliminary Consultation for Moulton Landscaping.

Correspondence: The LUC told Board members that she had a discussion with Garrett Evans regarding a subdivision. Not long after that, she had a telephone call from him regarding a Lot Line Adjustment which may or may not be related to the first question. He asked what the process was and she explained what she understood was the process for a “Lot Line Adjustment/Annexation”. The LUC told Board members that they could find a copy of an email from Evans in their packet that explains his question. The LUC further explained that she had understood that there were two different things: a “Minor Lot Line Adjustment/Boundary Agreement” which had less rigorous requirements/no public hearing and a “Lot Line Adjustment/ Annexation” which does require a public hearing. The difference affects the manner in which applications were handled depending on whether they were “minor” or not and that the “minor” lot line adjustment/boundary agreement applied to small adjustments that would not change whether a property could subsequently be subdivided in more lots than originally was the case and that only in a case which was “minor” was a Lot Line Adjustment handled without requiring advance Notices and a Public Hearing. She further understood that, if the change in Lot Lines was such that Lot Line Adjustment/ Annexation resulting in a property that could be cut into more lots than before the annexation, it was handled with advance notice and a Public Hearing. The Chair asked if the Lot Line Adjustment that Evans was asking about was from the LUC’s point of view “minor” or not. The LUC replied that she currently has no specifics from Evans and that he asked for the answer to his email before going any further; so, the LUC does not know. There was an extensive conversation regarding the current language in the Regulations and the lack of definition of what is a “Minor Lot Line Adjustment”. The Chair asked if the LUC thinks that Evans’ concern is with fees. The LUC said that does not seem to be it as she explained to Evans that there would be fees for Notices regardless.

The LUC explained that the entire thrust of Evans’ argument seems to be that he did not feel it is correct to have a Public Hearing and Notices to abutters in advance. The LUC’s best understanding is that he does not want to have Notice to abutters sent in advance and a Public Hearing which would permit abutter input. It was agreed that this question is an example of why the Board needs to work on language in the Regulations, including Definitions and how a Lot Line Adjustment/Annexation is handled. The LUC stated that the problem from her point of view is that the current Regulations do not define what a “minor lot line adjustment” is; nor clearly explain how “minor lot line adjustments” might be handled differently from any other “lot line adjustments”. Sundquist agreed that there has always been in the sense of the subdivision regulations this difference between types of lot line adjustments – one that is more of a simple agreement of convenience among abutting owners or maybe something discovered in a survey that is being corrected and another that was more like a conveyance of property to the benefit of participants. There was a discussion about the way that abutters are noticed. It was agreed that where there is no Public Hearing there is no opportunity for abutter input. Sundquist noted that occurs all of the time where individuals purchase property to expand their land holdings. After extensive discussion, it was agreed that at this point the question would only be: does this Lot Line Agreement create and an unbuildable lot were there previously was a buildable lot? If the answer is no, then it would be treated as the LUC previously treated a “minor Lot Line Adjustment. It was agreed that part of the public meeting would include a review of the plan and proposal and it could be determined at that time whether there would be more required, including whether it needed to be reviewed in a Public Hearing. Sundquist reiterated that it is clear that the Planning Board should move forward to revise the Regulations, paying close attention to the language and definitions.

Old Business: Mapes Property – The LUC reminded the Board that, at the last meeting, there was discussion about turning the issue over to the Select Board. She asked Sundquist for his thoughts. He asked for a summary of the situation. The LUC explained that this was the case where a couple of years prior the ZBA had issued a Conditional Approval for a change of use from a business to a multi-family. There were two conditions: 1. that they install a vegetative screen around the property and 2. that they obtain a DES approved septic system design as the then current septic system was judged to be inadequate to handle the new configuration with multiple apartments. Last year after months of efforts by the Select Board and the LUC, current and previous, acting for the Planning Board, including communications with Provan & Lorber, the Mapes said that they did have a septic plan and agreed to complete an application and provide the septic plan and appear before the Planning Board at a public hearing.

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They asked for consideration of their financial issues and the Board agreed to waive the fee. The Public Hearing was noticed and held. The Mapes appeared and when they showed the Board the plans then member David Burnham questioned whether this had really been approved by DES. The answer was that it had been submitted but never approved. The Hearing ended there as the Application for Site Plan Review was judged to be incomplete. To date there is no further information. The LUC added that she understood that perhaps the Mapes were no longer living at that property; she had no additional information on that. There was a discussion about what should be the next step. The LUC stated that she would like to check with DES first and, if there has been no additional action or effort on the Maps part, she will discuss with the Town Administrator about the next step. Blakeman suggested that this be taken up with the Town Administrator.

Master Plan- the LUC told members that she had provided them with copies of a draft questionnaire for the Master Plan town survey, copies provided. She explained that she had taken the answers provided in the 2004 Master Plan document and extrapolated the questions to give them something with which to work. She also explained that she had a list of roughly 1100 individuals/addresses to which a questionnaire could be mailed; but, in researching mailing costs discovered that it would far exceed the money in the budget for printing and mailing costs. There followed extensive discussion about what should be in the questionnaire, the costs, and the best way to get people to complete the survey, including how to advertise, whether to find a way to use Survey Monkey the electronic approach to surveys which is very cost effective. It was agreed that member would do some homework reviewing the draft and the survey information from the 1996 and 2004 Master Plan work and come back with recommendations.

The LUC reported that she spoke with Annette Vogel at the InterTown record and that she was quite supportive of the idea of following the Master Plan in a regular series of article to run this summer. The LUC will keep them advised.

Other Business: Nomination of Agent Form- the LUC explained that the ZBA had asked her to create a form for use by applicants to formally nominate an agent to act for them. A copy of a similar form, but for use by the Planning Board is included in their folders. The LUC asked if the Board would like to include that as a Planning Board form for applicants use.

Reports: The LUC told members that their folders contained an updated Open Conditions Report. It was noted that most of the open items are from ZBA conditions and there are only a few Planning Board items. The LUC told members that ITW completed the condition that they register the Addendum with Blaney with the Merrimack County registry of Deeds. With that Condition met, the Building Permit for the cell tower has now been signed. It was agreed that the next action item was to keep the Code Enforcement Officer on the lookout for signs that site work has commenced and once he has determined that for the LUC to contact Mark Moser and let him know that he can begin checking the work on the installation.

Sundquist asked about the rumor that ITW was purchasing the property. The LUC explained that she spoke with Kevin Fadden recently and asked him about that and was told that was incorrect and that they never intended or suggested that they would purchase the property.

Next regular meeting is scheduled to include Public Hearing and will be on June 24, 2014 at 7:00 PM.

There being no further business, the meeting was adjourned at 8:25 PM.

Respectfully submitted,

Laurie Hayward
Land Use Coordinator