

**Planning Board Meeting
July 12, 2023
Minutes**

These minutes are not verbatim – they are the secretary’s interpretation of what took place at the meeting. - Open Meeting Law, G.L. c. 30A§22.

Board Members: Tim Grandy, Steven Bolotin, Birgitta Kuehn and Carl Donaldson

Staff Members: Robin Carver and Lee Hartmann

Recording Secretary: Eileen Hawthorne

Administrative Notes:

Minutes*:

June 28, 2023

The Board postponed voting on the minutes of June 28, 2023 to allow Birgitta Kuehn to provide language for the revisions she requested.

Covenants, Plans and Releases*: None

Form A Plans*: None

Fall Town Meeting

Funding Request, Master Plan Update

The Board received the following documentation for this review:

Memo dated July 6, 2023

Request for Consultant dated June 22, 2023

Steven Bolotin presented the proposed town meeting article to request funding for the Master Plan update. The estimated cost of the update is \$500,000. Senator Susan Moran and the State delegation have received a commitment from the Commonwealth for \$70,000 toward the Master Plan update. The amount to be requested for approval by Fall Town Meeting will be \$430,000.

Carl Donaldson moved for the Board to support the funding of the Master Plan update and place an article on the Fall Town Meeting Warrant; Steven Bolotin, second; the **vote** was (3-1) with Birgitta Kuehn in opposition.

Birgitta Kuehn moved for the Board to meet with the Master Plan Task Force to discuss the future update; Steven Bolotin, second; the **vote** was unanimous (4-0).

Public Hearing: B437 – Pinehills LLC

off Pinehills Drive and Clark Road, Map 77D, Lots 10-419 and S-151

Divide to create lots 10-662 through 10-675, lots S-283 through S-287 and approve Street

Name: “Birdsong” and Release of Covenant

The Board received the following documentation for this review:

Draft Vote

Release of Covenant

Locus Map

Road Layout Plan dated April 18, 2023

Modified Definitive Subdivision Birdsong Plan Set dated May 17, 2023

Tim Grandy read the public hearing notice and opened the public hearing.

Atty. Deborah Sedares, Pinehills LLC presented a proposed new planned retirement neighborhood (one resident would have to be over 55 years of age) within the Pinehills Development. The neighborhood would consist of 14 residential lots varying in size from 3,400 sq. ft. to 4200 sq. ft., a pocket park with a paved walking trail in the middle and the road and overflow/guest parking around the perimeter. The proposed two bedroom dwellings would be bungalow style (one floor) with a garage at the rear. The master plan for the development allows for 920 planned retirement units within the development. There are currently 771 planned retirement units, and this neighborhood would bring the count to 785. An additional 50 ft of vegetated buffering will be added to the required

100 ft. buffer along Clark Road and buffering in varying widths will be provided around the perimeter of the site. The neighborhood access will have its access/egress off Purchase Street with an emergency access off Pinehills Drive.

Public Comment:

Harvey Kowaloff expressed his concerns with the ongoing construction within the development, when the development would be completed and how much land would be preserved.

Ken Stone asked for clarification on the proposed release of covenant.

Stephen Anderson asked if emergency vehicles would cross over the green traffic island on Pinehills Drive.

Harry Shemere expressed his concerns with pedestrian safety across Clark Road, density and traffic.

Meg Sheehan asked what the changes in topography would be, whether the site would be clear cut, what the landscaping would look like, and how much material would be removed to create the road.

Randy Parker spoke in support of the proposal.

Lee Hartmann noted that the 2000 OSMUD Special Permit outlined the parameters of the development and identified in the master plan what areas would be developable. The question for the Board is whether the proposed road for this neighborhood meets the standards of the special permit.

Atty. Sedares stated that the Fire Department has reviewed the plan and has determined that the layout meets the turning radius for their equipment. She noted that the site is fairly level, so minimal gravel will be removed from the site, the site will need to be cleared and will be relandscaped once it is completed, there will be a trail through the pocket park that will connect to existing walking trails, the houses will front on the pocket park and there will be a planted area around the perimeter.

Steven Bolotin reminded the residents that the Board is being asked to determine whether the road meets the standards of the parameters set forth in the OSMUD. Mr. Bolotin noted that this area has always been identified as an area for development and this neighborhood would generate less traffic than a commercial use. He noted that Pinehills recently did a presentation for the Board regarding traffic and is working with the DPW to determine what mitigation is warranted in the area.

Lee Hartmann announced that the chat feature of Zoom is not monitored by the Planning Board.

Birgitta Kuehn asked for clarification on the dark green area shown on the Master Plan.

Atty. Sedares explained that the dark green area was under control of a third party and it was permitted for a cranberry bog, the sand and gravel removal was in excess of what was permitted and Pinehills petitioned the Planning Board for a cease and desist order which was granted. Through litigation the Pinehill's then obtained control of the parcel. Working with Natural Heritage, a conservation restriction was placed on a portion of the site (11+ acres). There is also an Eversource easement through the site.

Ms. Kuehn asked if there would be any sidewalks in this neighborhood and suggested creating a right turn only from the development toward Meeting Way. She felt that the right turn only would create less traffic on one of the busiest roads in Pinehills and there would be fewer accidents.

Atty. Sedares responded that there are not sidewalks within the neighborhoods in the Pinehills – there will be a walking trail through the pocket park that will connect to the existing walking trails. She commented that a right turn only toward Meeting Way would not be feasible. Atty. Sedares explained that the Master Plan requires that only 30 percent of the entire development be built on and 70 percent is open space. In response to Tim Grandy's question regarding what the current percentage of build out was, Atty. Sedares replied that out of the 3,065 homes allowed, there are 547 remaining (some are already permitted) and out of the 1.3 million sq. ft. of commercial space, approximately 110,000 sq. ft. is available. The development is approximately 83 percent complete with 17 percent left to develop.

Pat Adelman asked if the development has to donate toward affordable housing or the Affordable Housing Trust.

Mr. Hartmann explained that this development predates the affordable housing requirement.

Atty. Sedares noted that the Pinehills has voluntarily created a Pinehills Affordable Housing Trust which to date has funded 19 affordable housing homes. Annually for every new home that is built in the development a contribution is made to the Trust. In addition, they have done fundraisers for affordable housing and work with the builders to make voluntary contributions.

Birgitta Kuehn moved for the Board to close public comment; Carl Donaldson, second; the **vote** was unanimous (4-0).

Steven Bolotin moved for the Board to approve the plans for the new neighborhood based on staff recommendations, the release of covenant and the street name of "Birdsong"; Carl Donaldson, second.

Birgitta Kuehn moved to amend the motion to have the entrance aligned with the Market entrance or be made a right turn only and that the pocket park have a paved or bluestone walking trail.

After a short discussion, Ms. Kuehn withdrew the pocket park language from her motion.

The other Board members did not support the amendment to change the entrance to the neighborhood or require a right turn only toward Meeting Way.

The **vote** was (3-1) with Birgitta Kuehn in opposition.

Lee Hartmann stated that there was a joint meeting with staff, the Town Manager, DPW and the Pinehills to discuss traffic issues and there will be a future presentation to the Board regarding traffic mitigation.

**ZBA 4098- David and Andrea Willett
20 Bancroft's Landing, Map 46, Lot1-158**

Special Permit to waive residential access standards for a buildable lot (7/17)

The Board received the following documentation for this review:

Staff Report

Letter from Atty. Robb L. D'Ambruso dated May 25, 2023

Engineering Department comments dated July 3, 2023

Fire Department comments dated July 5, 2023

Comments from Director of Public Health dated July 5, 2023

Plan of Access Options dated May 23, 2023

Atty. Robb D'Ambruso, D'Ambruso Law, presented a request for a special permit to create a buildable lot by waiving residential access standards. The 1.3 acre parcel could potentially accommodate three residential units, but the petitioner would agree to restrict the development to one single dwelling if the special permit is granted. There are three traveled ways that intersect with Bancroft's Landing (Osprey Lane, Arnold Ave and Manomet Point Road) and approximately 32 residences use these ways for access. The road widths are adequate for access and the grade will not exceed 10%. There is adequate emergency vehicle access. All drainage will be contained on site. Residential sprinklers will be installed in any dwelling constructed on the property. The Engineering Department comments will be satisfied.

Robin Carver noted that staff relies on the Engineering and Fire Department for their input as to adequate access. In 2010 the Planning Board granted a special permit for a VOSD that created five dwelling units in this area. The site could have three dwellings (a single family and a two-family). Ms. Carver stated that a Notice of Intent would be required if there was any construction proposed within the wetland buffers.

Public Comment:

Philip Utley was concerned that the proposed construction would increase the major flooding in the area; have a negative impact on existing wildlife and Skooks Pond; and the narrow roads do not provide adequate access. Mr. Utley also stated that recently emergency vehicles had a difficult time navigating the narrow roads.

Randy Parker thought that one more house in the area would be reasonable but that the proposed driveway should be relocated.

Bill Arienti stated that he appreciated the work with the Fire Department but was concerned with the drainage issues. Mr. Arienti suggested that prior to a vote the drainage should be defined.

Carl Donaldson expressed his concerns with the drainage, the steep and high elevations and he requested that the drainage proposal be presented to the Board once the plan is finalized. He supported the owner's rights to develop the lot and preferred to see more than one unit on the site.

Steven Bolotin suggested adding a condition that the applicant return to the Board with an engineered site plan that includes drainage. While he appreciated that this is a tight area with narrow roads, he noted that numerous other residences use these existing roads for access. Mr. Bolotin supported the

proposal with protection for the surrounding properties and the restriction for only one house on the site.

Birgitta Kuehn voiced her concerns with the access in the area. Ms. Kuehn asked if the land has been perked yet.

Chris Sanderson, Merrill Engineering, replied that a perk test has been done and it took less than two minutes per inch to drain. The conceptual plan depicts a roughly sized septic system and the perk information.

Ms. Kuehn stated that there are no letters of support from abutters, that the septic system is located right above a retaining wall and it will impact the home below it. She also noted that Skooks Pond has just come off a cyanobacteria alert because it collects all the runoff from the existing septic systems in the area. Ms. Kuehn encouraged the applicant to retain the trees for conservation purposes. Ms. Kuehn did not support the construction of a dwelling on this site.

Tim Grandy asked if the drainage can be designed to contain the water on the site and if a low nitrogen septic system could be installed. Mr. Grandy supported adding a condition that the drainage plan should be submitted once completed and the restriction of one structure only. He suggested that a garage, barn or other accessory structures should not be allowed.

Carl Donaldson moved for the Board to recommend approval to the Zoning Board of Appeals with conditions that septic and drainage plans be presented to the Board, the Fire Department's recommendations, the single dwelling restriction, no further subdivision of the land and installation of a low nitrogen septic system and that all Engineering Dept. comments need to be addressed.

Ms. Kuehn suggested that there should be a two-bedroom septic system. This suggestion was not supported by the Chair.

Tim Grandy asked how much of the land would need to be cleared to build one structure.

Chris Sanderson replied that approximately 50% could be preserved.

Mr. Hartmann stated that conditions that would preserve 50% of the site and the plan must show the building envelope prior to the building permit could be added.

Steven Bolotin seconded the vote; the **vote** was (3-1) with Birgitta Kuehn in opposition.

ZBA 4099 – Damon Sgarzi 70 Hedge Road, Map 6, Lot 62-3

Special Permit required to expand pre-existing non-conforming structure to add a deck, breezeway and garage (7/17)

The Board received the following documentation for this review:

Staff Report

Engineering Department comments dated July 3, 2023

Fire Department comments dated June 26, 2023

Comments from Director of Public Health dated July 5, 2023

Site Photographs

Building Elevations dated February 28, 2023

Proposed Addition Plan dated October 30, 2020

Atty. Timothy Angley and Tom Pozerski, Merrill Engineering, presented the request for a special permit to add a 16'x42' deck, 26'x42' breezeway and 50'x62' garage with a mezzanine/office and storage on the second story for personal use to a pre-existing non-conforming single family dwelling. The lot has another structure that is being used as another dwelling unit. In this zone, a single family would be allowed by special permit.

Robin Carver noted that the property is in a Waterfront Zone and the request for a special permit is to expand a non-conforming structure, not for use. The utilities for the site include Town water and sewer. The proposal does not add any bedrooms. There is no request to allow more than one dwelling on the property. The project has received an Order of Conditions from the Conservation Commission. Engineering and Fire Department comments have been satisfied.

Lee Hartmann noted that the Building Commissioner does not have evidence of a permitted, legal second dwelling on the lot. This special permit is required because the existing main single family dwelling does not meet the setback requirements.

Atty. Angley acknowledged that they would need a separate special permit to allow the use of the second structure as a residential dwelling.

Birgitta Kuehn asked if there would be any renovations to the exterior of the existing dwelling and whether there would be any road improvements.

Mr. Pozerski replied that there would be renovations to the exterior of the existing dwelling and that the flood storage capacity on the lot will be increased to decrease flooding on the road.

Steven Bolotin asked if there were any other setback issues on the lot.

Mr. Hartmann stated that the existing dwelling does not meet the existing setback requirements. He also noted that the secondary structure was previously a shop or office space and there is no record of permits to convert to a residential use.

Robin Carver noted that the proposed addition does meet setback requirements.

Steven Bolotin asked if the secondary structure was connected to Town water and sewer. Mr. Bolotin was concerned that the Board is being asked to approve a non-conforming structure on a lot that also has a non-conforming use.

Tom Pozerski stated that the secondary structure is connected to Town utilities.

Mr. Hartmann reviewed a proposed condition that a deed restriction would have to be recorded to convert the smaller structure to a non-residential use or a special permit for use would be necessary in order to allow a second residential structure on the lot.

Tim Grandy clarified that the secondary structure which is currently being lived in would have to be vacated unless a special permit for use was issued.

Birgitta Kuehn felt that the secondary structure issue should be addressed first.

Damon Sgarzi informed the Board that the smaller structure was originally an office building for an oil company and the conversion to a residential unit was done prior to his purchase of the property. Mr. Sgarzi stated that the main structure became non-conforming when it was moved away from the shoreline onto this lot.

Ginny Sgarzi expressed her frustration with the process.

Birgitta Kuehn moved for the Board to recommend approval to the Zoning Board of Appeals subject to the following conditions:

Prior to issuance of a Zoning Permit a Municipal Lien Certificate shall be provided to the Building Commissioner as evidence of payment of any back taxes, fees or penalties owed to the Town, if any.

A deed restriction that prohibits the use of 66 Hedge Road (the smaller structure) as a dwelling unit is required except if the dwelling unit is approved by the Building Commissioner as a legal preexisting use or through the granting of a special permit by the Zoning Board of Appeals.

Prior to construction, the wastewater flow calculations associated with this project must be reviewed by the Sewer Division. All connections to Town sewer are subject to wastewater flow availability and payment of all applicable sewer connection fees. The DPW Sewer Division will not sign off on building permits until all sewer connection fees have been paid and construction plans have been submitted and approved. Construction plans must show adequate detail on the size and material of the proposed and existing sewers, including service laterals, cleanouts and manhole locations. All sewer laterals, existing and proposed, shall include a two-way cleanout, located at the property line.

Steven Bolotin, second; the **vote** was unanimous (4-0).

ZBA 4100 – Amazon.com Services LLC (Withdrawn at the request of the applicant)

50 Prestige Way, Map 102, Lot 2-3

Modification of SP 4030 required to waive number of freestanding signs and to waive number of architectural signs (7/17)

Steven Bolotin moved for the Board to adjourn at 9:52 p.m.; Carl Donaldson, second; the **vote** was unanimous (4-0).

***On file with the Office of Planning and Development in project case files.**

Respectfully Submitted,

Approved: July 26, 2023

Eileen Hawthorne
Administrative Assistant