

replaced a drain structure in front of the relocated driveway. They updated the silt fence locations. She showed the swale along the relocated drive.

Mr. Chalot opened the public comment.

John LoBosco of 21 Fessenden Rd. has concerns about the project. The entire property is not large enough for 1 house, not 2. The zoning calls for 1.84 acres. The private accessway is not wide enough and he is worried about the drainage from the relocated driveway which is right next to our house. It all drains to our property.

No one else came forward to speak, so the public comment was closed.

Ms. O'Meara said the back lot does not meet the requirements of the current zoning, but the town has provisions for a legal non-conforming lot. If you have a lot that complied with the minimum lot size when it was created, the town allows them to be built on as long as they are at least 10,000 sq. ft. So the back lot is more than 10,000 sq. ft and was created in 1955 when there was a lesser minimum lot size. The private accessway permits are common. They are supposed to be 30 ft. in width. This one is the full 30 ft. They want a 2 ft. reduction in width of the travelled way. They also will not have a turnaround for emergency vehicles, but instead will have a sprinkler system in the house. There is nothing to prevent the owner from moving the driveway to the other side of their lot.

Mr. Sahrbeck asked if they were looking at the division of that lot.

Ms. O'Meara said the lot is not being divided now. The rear lot was created in 1955.

Mr. Curry made the following motion:

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Paul Stewart for a Private Accessway Permit to make an existing lot located at the rear of 19 Fessenden Rd buildable (U16-21) be tabled to the September meeting of the Planning Board.

Mr. Bodenski seconded the motion and it was approved, 7-0.

NEW BUSINESS

14 Hill Way Site Plan, Subdivision Amendment - Two Penguin Properties LLC is requesting site plan review of a mixed use building with 1,920 sq. ft. of office on the first floor and one residential unit on the second/third floors, and

amendments to the previously approved Tarbox Triangle Subdivision, located at 14 Hill Way (U22-74-3), Sec. 19-9 Site Plan

Rick Dunton of Main-Land Development Consultants presented the project for the owner. They propose a mixed use building. It is in the Town Center zone where the minimum lot size is 80,000 sq. ft. for a single family residential or 7,500 sq. ft. for a multi family or mixed use.

They originally proposed a short term rental on the lower floor as a way to meet the requirements, but the moratorium on short term rentals has caused a change in the proposed usage on the ground floor.

Mr. Dunton showed the plan of the subdivision. This is lot 3 of the original subdivision and is 14,002 sq. ft. 5 parking spaces are proposed and 2 spaces in the garage. He spoke about the stormwater and said they propose a new rain garden. The building will front on Scott Dyer Road.

He showed renderings of the building that is proposed. He spoke about the grading. The first floor is set down and there are steps down to the entrance to that floor.

Ms. Jordan asked about handicap access to the lower floor.

Mr. Curry asked about the intended uses for the 3 levels.

Mr. Dunton said levels 2 and 3 are residential and the first floor is non-medical office space for Dr. Zev.

Mr. Curry said that without that basement level it would be a single family home. A single family home requires a 80,000 sq ft lot.

Mr. Huebener asked who will monitor the use on the lower level.

Ms. O'Meara said the building needs to be designed as a mixed use building. The Code Enforcement Officer will have to monitor the use.

Mr. Gilbert noted that they recently had a situation where the owner had to remove the kitchen because it looked too much like a living space. Now they are creating the same situation from scratch. It doesn't make sense.

Ms. Jordan asked the applicant to address the comments by the engineer and the staff.

Mr. Dunton spoke about the comments and asked how waiveable are the standards, for example the handicap accessibility runs counter to the goals of

the property. The two way public access is nearly the same width as the parking area.

Ms. Jordan said the ADA standards are beyond the Board.

Mr. Chalot said if the engineer says we need a wider driveway, we don't argue with him. It looks like a building designed by a residential designer. It's a commercial project, that first floor is a business occupancy. There is another set of codes that apply to commercial construction.

Mr. Curry said the first floor looks more like an apartment.

Mr. Dunton said the goal of that first floor is to give the Myerowitz's a space to work from.

Mr. Sahrbeck said he does not think this is complete as to meeting the zoning. He noted the front entrance is not the frontage that you would expect for a commercial building.

Mr. Huebener asked about street lights.

Ms. O'Meara said those lights are predominantly on Ocean House Road.

Mr. Chalot noted that the landscaping is outside the property line.

Ms. O'Meara said the landscaping looks like the buffer you would establish around a single family home.

Ms. Jordan asked if the tree warden needs to review the list to see if they are on the approved list.

Mr. Curry said the first floor should be commercial. This is sub level, below grade.

Ms. O'Meara said this is a floor that is held above ground by retaining walls. The second floor is larger than the first.

Mr. Huebener said it is essentially a house. He cannot support this as it is.

Mr. Chalot opened the public comment period.

Zev Myerowitz said he was glad he finally has a chance to speak. He did not receive an invitation to this meeting. He is trying to move forward with a short term rental. The rules changed at the 11th hour. This is an extremely frustrating process. We were erroneously denied last month because of a right

of way issue. That might have made the short term rental precede the moratorium. He listed the abutting properties and said this is a transitional lot. It wouldn't make any sense for me to put a Starbucks or Golden Corral on this lot. He believes the pushback from the town would be outrageous. We designed this building to meet the exact letter of what is needed by the town. We've attempted to move forward quickly, we've attempted to submit this when a short term rental was allowed. We've experienced a lot of difficulty because now there is an amendment proposed. This is the exact reason we do not have lots being built in this town.

No one else indicated a desire to speak, so the public comment was closed.

Mr. Gilbert said the applicant could propose this as a short term rental. It will be at his own risk.

The town enacted a moratorium on new short term rentals permits as of June 1. Since the building does not exist you couldn't get a short term rental permit for it prior to June 1.

Mr. Curry asked if it is true that a short term rental qualifies as a non residential use.

Ms. O'Meara said that is true. She also does not think anyone should assume that will not change.

Mr. Myerowitz said going forward with a short term rental eliminates the ADA requirements and the parking requirements. He further said that he has 3 different LLCs and 20 employees. He could have one of those employees work in that space. He would even get around the ADA requirements because he has ADA compliance in his adjacent building, so he could accommodate an employee who has those needs. There was more discussion about using the short term rental on the first floor.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the plans and the materials submitted and the facts presented, the application of Two Penguin Properties, LLC for site plan review of a mixed use building with 1,920 sq ft. of non-medical office space on the first floor and one residential unit on the second and third floors and amendments to the Tarbox Triangle Subdivision, located at 14 Hill Way be tabled to the regular September 15, 2020 meeting.

Mr. Gilbert seconded and the motion passed, 7-0.

OTHER BUSINESS

Planning Board digital/remote operations - The Planning Board will review meeting logistics and upcoming items.

No one had any comments on this issue.

The Board voted 7-0 to adjourn at 8:40 p.m.

Respectfully submitted,

Hiromi Dolliver
Minutes Secretary