Weiss Farm Standing Committee meeting minutes
Date: November 26, 2013
Location: The Hearing Room @ Town Hall
Time 6:30

Attendees: Selectmen Tom Boussy & John DePinto & residents Angelo Mangino, James Sullivan, & Bob Verner. Also present was attorney Jonathan Witten since he was in town for separate meeting. Audience consisted of about 20-25 citizens.

- Greeting & introduction by Jim Sullivan

- Completed item 1 on the agenda, electing Tom Boussy chairman, John DePinto vice-chairman, & Angelo Mangino recording secretary.

- With the unexpected presence of Atty Witten, we postponed item 2 from the discussion, moving to item 3 (reviewing any ?'s the Nov 12 public hearing & the recent letter from Corcoran – copies of which were made for the audience).

- Atty Witten's advice on a response: BOS might be willing to entertain discussion on a different development option, not the current proposal. The applicant did not meet with the town before going to the state, contrary to MassHousing's internal policy. The position of the applicant seems to be they do not want to negotiate with the BOS, and instead, just with the ZBA. If that is the applicants position, he advices to reject it.

Committee Discussion:

TB: Can we extend the deadline for MassHousing if they come back with a different proposal?

JDP: In a similar situation in Ipswich, the developer met w/ the town several times before going to MassHousing.

JS: Seems to reflect some arrogance on the applicant's part – mainly since they have a comprehensive permit behind them thanks to 40B. They were very surprised at the community's concerns @ the hearing & have a lot of work to do to prove they are willing to work w/ the town.

TB – Almost seems like they missed something on the "checklist"

BV: Given the applicants confidence thanks to 40B, it's important to have the feasibility experts & consultants ready to go.

JW: BOS & himself are working on a response to applicant, will be ready by the Dec 16 BOS meeting – draft to be reviewed next week & he wants the department heads to weigh in.

TB: After letter sent, we welcome public comment on the response.

Public/Committee comments:

Larry Means: The ZBA is not attending any of these meetings – is that a problem or by design?
JW – No, ZBA should not attend these public hearings.

AM: Who hires the experts – BOS?
JW: The ZBA

BV – Can the developer jump (bypass) the ZBA under any circumstance?
JW – None – process must start & finish w/ the ZBA

JDP – Town got a letter from Melrose – if there is an issue that affects Melrose but not Stoneham, can the Stoneham ZBA use the developer's funds for Melrose?
JW – No, but they can be a plaintiff in a lawsuit vs Stoneham, depending on the case's standing.

TB: Have consultants ever denied a project?
JW: Yes, adding he recommends the ZBA to rely on outside people since they have the specific expertise.

BV: Do you (Atty Witten) have to always check in with the town or do you have any discretion in this review?
JW: Comfortable with the current arrangement of working hand & hand w/ the TC & TA, may need some discretion as things become more fluid during the appeals process.

Larry Means: Town Meeting appropriated $250k for defending the town's interests. Are you our lead counsel?
JW: Bill Solomon is TC, while JW will be special counsel.

Larry Means: Will JW be present at all the ZBA meetings concerning this application? Urges him to be involved every step if the way. Whether $1 is spent or all the $250k is spent – just make sure it's used in the best interest of the town.
JW: Yes, that's the intent (to be @ all the meetings) – he is available. Most of the legal work & expenditure will be incurred during the appeals process. Highly unlikely the $250k will be used up.

TB: We need to be mindful of the amount/cost of all the consultants that will be hired.

BV: what if ZBA approves the project?
JW: If ZBA renders a decision that the public is not satisfied with, the public can challenge.

Leila ?: Will EPA review the impact on animals, fauna, & wetlands?
JW: Yes, applicant received a letter from EPA this week given Army Corps of Engineers assessment. Applicant has been put on notice -town won't find out the results until application is sent.

Unknown: Is sending letters to our public officials a waste of time?
JW: No, but don't get your hopes up about influencing them.

TB/JDP: We need to approach Lewis & Clark. Where do they stand on the issue?

JW: Mass Housing has never been a friend of local government – their sole purpose is just to facilitate the development of new housing.

Unknown: What's under Weiss Farm – contaminants?
JW: After the site investigation, the ZBA will comment on their findings. ZBA can only grant waivers to local by-laws, not state or federal ones.

Mary-Lou Bracciotti: If we had a better plan, would we be in better shape?
JW: Planning may help, but does not protect against 40B. In MA, no towns are required to have a plan. Having one has never had a legal or persuasive effect.

JDP: If the hospital project had gone through, Stoneham would have satisfied its 40B requirements.

AM: There is not that much undeveloped land in Stoneham when you factor that nearly 1/3 of the town is the Middlesex Fells...will this fact be considered in assessing the suitability of this proposal?
JW: Yes, its similar to a situation in a South Shore community – the land area devoted to comprehensive permit project's in a town does matter in determining eligibility.

Devon Manchester: Why does this town not have a planner?
TB/JDP: Not the right forum to have this discussion.

Tara ?: Stoneham is among the very few towns in the area w/o a town planner... Teachable Moments daycare is right next to the wetlands edge of Weiss Farm – will any testing be done to ensure the children are safe from any potential soil contaminants from Weiss Farm?
JW: ZBA takes "sensitive receptors" into consideration, so a daycare should fall under that.

Unknown: Has there been any conversation w/ Corcoran on some type of land swap?
TB: Hasn't formally come up – has been talked about but nothing in the works.

Paul Armano: Does fact that Stoneham decided not to put it's new middle school next to the nearby high school give the town any leverage?
JW: No, but it provides data that will be valuable.

JDP: We may not be able to put traffic lights since the entrance is so close to the high school – how does that come into play?
JW: It is relevant, but traffic is not a basis to turn down 40B – the state doesn't care, similar to any resulting need to hire more police, fireman, etc.

TB: Stoneham's Fire Dept doesn't have a truck big enough to reach the top of the proposed buildings!
JW: Same as the traffic issue – the state doesn't care, they'll say go buy a new truck.

TB: What if there is not enough water pressure for the buildings to be sprinkled?
JW: Yes, that is a concern & he has already mentioned that to the ZBA.

JS: This SC was formed by Town Meeting – what can we do to assist the BoS to achieve the best outcome for the town?
JW: 2 things – 1) comment & provide input to the letter being drafted to Mass Housing. The BoS would benefit from that. 2) If the project eligibility letter is issued, the SC has tremendous input to the ZBA given their local expertise. There will be several public hearings & they'll be very formalized (with stenographic records).

JDP: When step 2 arrives, should JDP & TB be allowed to provide input given they appointed the ZBA, or should just the other 3 members do so?
JW: Yes, as long as there is not a vacancy "mid-stream" on the ZBA.

PA: As citizens, should we write letters to our state representatives?
JW: Once Mass Housing grants the ticket, the BoS steps aside & ZBA becomes the final player, so the public's role is to work with the ZBA. There will be at least 6 months of hearings for the public to provide testimony. The ticket, if granted, is expected around March 2014.

BV: Does MassHousing have an unlimited budget?
JW: Effectively, yes

John Eaton: The deadline for letter to the BoS is December 10 – how strict is that deadline given it's the day of the special state election?
JDP: Letters received by Dec 11 will be included in our package.

Atty Witten left

TB: Agenda got shuffled around given the unexpected JW visit, but in summary of the agenda, completed items 1,3,5 & talked about 2 as JW discussed how the SC could assist. Any public comments?

John Healy: Are expenses to the town irrelevant to HUD? Where are we going to put a bigger fire engine we would be forced to buy? How are we going to pay for the additional crew & other public safety? This project is detrimental to the taxpayers.
TB: Can't disagree

Unknown: She & her husband were told in private from a former Stoneham FD head (Bill Negan? - since deceased) that the property owner 3 houses down from Weiss Farm (towards high school) allowed unknown debris from Boston Gas in the 1960's to be dumped on his property.

Lila ?: I sold that lot of land for him (John Sullivan) – that fill came from where the Amelia Earhart dam was being dredged up & he illegally had fill dumped on his property, and the Conservation Commission decreed that he cannot develop the lot because of the illegal fill.

Unknown: Around the same time (1960's) then owner of WF allowed manure to be brought in from Suffolk Downs & the neighborhood was infested by yellow flies, and so neighbors took him to court & stopped it.

TB/JS: This will be reviewed by the environmental experts & their will be soil testing since she (Donna Weiss) has been fined over the last few years.

JDP: We need to find out how/if we can get the EPA involved. If the Army Corp of Engineers is, the EPA should as well.

Martin Wantman: Unlike the public, he has walked WF in the rain. Why can't the public be allowed to walk there in a 1-2 inch rainstorm to see what happens? There are dumps in WF that people aren't aware of because no one would cross the ditch. There is concrete buried on the property near his lot-line – maybe 100-200 tons. Go in the rain – see what happens.

TB: It's private property – so can't sanction it.

MW: Can check out the waterfall created at the end of Ellen Rd, water comes to him on Gerald Rd & its supposed to go to Buckman or Doleful Pond, not to Ell Pond – its supposed to go west, instead it makes a u-turn & goes from north to south.

TB: Do you have any video of this?

MW: Yes

TB: We should ask JW if it can be used.

MW: Has paid for dye tests & spent a lot of $ for benchmark surveys – we really don't know what's going on under the property..

JS: Need to be mindful of mitigation costs – don't want to senselessly load up the proforma – but we should pursue it since its important, but wondering how to approach it?

TB: Assumes MW has shared his research with the relevant authorities & TA?

MW: DEP, ConCom (who has a big file) – as well as Mr Means who is reading local papers from the early 70's when Philip Weiss brought up to town meeting to clean up the Colonia Park drain – that was never done, so that & cleaning out the north meeting house swamp so water will drain west would be a smart thing to do. Weiss used to drain 2 ways – now only 1 way by the pump house, and as a result, a lot of people are flooded on both sides of Franklin St.

TB: What happened to some house on Sunset – there was a house that is no longer a house?

JS: Because of the wetlands, the house split in 2 & was sinking into the swamp, so he tore it down & is rebuilding it on a slab & stilts.

JS: Concerned about seeing equipment – not sure if it's the town's – near a brook under Franklin St. Looks like they are cleaning out some of the drainage pipes – why now after all these years? Perhaps moot, but I'd like to know who is behind this & why now, since the timing is very interesting.

TB: That was the big sticky point – who ever cleaned it owned it, so no one ever wanted to do it.

Jack? Atty Witten said letters should now go to BoS instead of others?

TB: Yes, but don't forget about State reps & JW also said once state gives approval, need to go directly to ZBA.

JDP: Send to State Senator & Representative – Mass Housing may call them & ask for their thoughts.

PA: We have reached out to both, never heard from Katherine Clark, but Jason Lewis did attend one of the meetings & explained the process.

TB: Item #4 – when should we meet again?

JDP: Lets shoot for January 14 between the 2 BoS meetings.