

MARSHFIELD PLANNING BOARD  
Meeting Minutes  
October 7, 2019 – 7:00 PM  
Town Hall – Hearing Room 1

PRESENT: Mike Biviano, Chair  
Katie O'Donnell, Vice Chair  
Kevin Cantwell  
Fred Monaco  
Nik Pappastratis  
Peg Davis, Associate Member

ALSO PRESENT: Kay Ramsey, Executive Assistant  
ABSENT: Greg Guimond, Town Planner

Mr. Biviano opened the meeting at 7:00 PM.

PUBLIC HEARING – STREET IMPROVEMENT – CHILTON STREET – LYNNE MURPHY

Mr. Biviano moved to open the public hearing and to waive the reading of the public hearing notice. Mr. Monaco seconded. The vote was unanimous.

Mr. Cantwell read a disclosure notice saying that he is a second cousin of the applicant but has no financial interest in the property, and that he could give a fair and impartial vote.

Mr. Jay Creed said that he wants Ms. O'Donnell to recuse herself. He said he sued her in 2006 and she won't be able to vote on any matter he brings to the Board as she cannot give a fair, impartial vote. Ms. O'Donnell said she will not recuse herself. She said that the suit was filed but nothing came of it and she votes on the rules, not on the applicants. She said she can definitely be impartial.

Mr. Terry McGovern of Stenbeck & Taylor presented the proposed plan. He said they had been before the Conservation Commission and have an Order of Conditions which slightly changed their original plan. They are proposing an 18' wide pavement for Chilton Street which is presently undeveloped. They are not proposing any berms. They are not proposing to pave Brewster Road. He said Brewster Road into Chilton Street has a gravel base. Mr. McGovern said they are proposing to have the stormwater runoff from Chilton Street flow to two grass-lined swales; one would flow to the south and the other would flow east. He said both would discharge up-gradient of the existing wetlands. He said the two drainage swales are at the end of the road adjacent to Mr. Mark Ochs and that they are pitched towards the marsh. He said that many of Mr. Ochs issues resulted when his lot was graded and constructed. Water service would be provided by an onsite well. The property will also have an onsite septic system. Drywells are proposed for roof runoff. Mr. McGovern said a stone driveway is proposed from the end of the paved improvements onto the lot. There will be erosion control around the

property line off Chilton Street and pretty much around the whole perimeter. Mr. McGovern said they have been before the Board of Health and also the Conservation Commission and have an Order of Conditions.

Mr. Biviano said that Mr. Guimond wrote a memo to the Board saying that Chilton Street is a paper street. The proposed road does not meet the Board's street improvement standards for width of roadway, berm, and drainage standards. Mr. Guimond wrote that drainage should not be discharged directly into a wetland without some type of drainage basin. Numerous drainage issues were noted on Brewster Road (some coming from 173 Peregrine White Drive) with water pounding on the lot. Mr. Guimond said that the proposal doesn't meet the long standing policy of street improvements needing to be done to an existing road or street that meets the Board's standards which in this case would be improvements (pavement/drainage) on Chilton Street, Brewster Road to Peregrine White Drive. He said there is the potential for other lots to be built off Brewster and that proper drainage would be needed as these lots become developed and Lot J12-02-10 is where the drainage is headed. Mr. Guimond recommended that if the Board were to approve the project, that it should be conditioned on the improvement of Brewster Road to the Board's standards and that the overall drainage issue be resolved. He said this would then allow this applicant to work with other potential applicants on sharing the cost of improvements.

Mr. Biviano asked if they were proposing to improve Brewster Road but Mr. Creed said they are not.

Mr. Pat Brennan of Amory Engineers said he had three basic comments:

- The proposed roadway section on the plan should include a specification for the 10" gravel base.
- The proposed improvements will provide the required frontage for the lot along Chilton Street but Brewster Road is unimproved gravel from Peregrine White Drive to Chilton Street. He said it is about 480'.
- It appears the proposed home will not conform to the zoning setback from Chilton Street. It's only 1' off the right of way line. Mr. Brennan said the required front and side setbacks are 10' and 7.5' respectively.

Mr. Brennan said that the small amount of runoff from the proposed pavement should be adequately conveyed by the swales and, with the discharge to tidal saltmarsh, any increase in runoff will not adversely impact any abutters.

Mr. Pappastratis asked what the elevation is for the swale to the north side of Mr. Och's property. Mr. McGovern said the pitch is under 1%. Mr. McGovern said they did three spot elevations – pitching out – representing that they are pitching away from the Ochs property.

Ms. Davis said the proposed road does not meet Planning Board standards. There is the potential for more lots. She said Brewster Road needs to be improved.

Mr. McGovern said this is the last lot that can be improved. The rest is all marsh. The land that wraps behind the proposed home is owned by Mr. Ochs. He said there are no other lots that are buildable.

Mr. Creed said that the Planning Board in 2011 and 2016 signed two ANR's on a street not accepted by the Town. Mr. Biviano said that is entirely different but Mr. Creed said by signing those ANRS, the Board was saying that Brewster Road had adequate width, grade and construction. He said that is the only way the Board could sign the ANRs. Ms. O'Donnell said that if a mistake was made in the past, it doesn't mean that the Board can't learn by their mistakes and it doesn't mean that they have to make the same mistake again. Mr. Creed said if they paved Brewster Road, it would provide the lots off Georgia Street with sufficient frontage. They are also probably Lots of Record. He said the pavement would exasperate drainage and would give the houses off Georgia Street cart blanch.

Mr. Creed submitted a letter from the Fire Department as well as a history of calls on Brewster Road and the past weather reports because the Chief spoke of weather in his letter. The Chief said on the day of inspection, the weather was clear but if the weather was different, he could not be sure that his equipment could access that location without possible delays during an emergency response. The Chief said that if the snow banks were on the sides of this unpaved road, they might not be able to access that location given the existing state of construction and the absence of a better constructed way. Mr. Creed said he couldn't see what the difference between a paved or unpaved road would make. The Chief went on to say that, in his view, access would be made even more difficult, if not impossible, if other emergency vehicles, including police or an ambulance were also located on that unpaved roadway. Mr. Creed said that's why he asked the Chief for a list of the calls to that location.

Mr. Ochs of 39 Brewster Road said he had over-riding concerns. He said Brewster Road is a disaster. He said it is woefully inadequate. It is 10' wide and gravel. When it is plowed, the snow is pushed toward him. The end is 40' from his well and the swale is about 5'. Mr. Och submitted a letter and pictures.

Mr. Biviano asked Mr. Creed if he would like the Board to take a vote tonight of if he would consider making some changes to the proposal. Ms. O'Donnell said that she would like to speak to Town Counsel to be sure she would be allowed to vote. Mr. Creed said he would like to confer with his client so he would like to ask for a continuance. Mr. Biviano moved to continue the hearing to October 21<sup>st</sup> at 7:10 PM. Mr. Pappastratis seconded. The vote was unanimous.

### MINUTES

Mr. Biviano moved to approve the minutes of September 23, 2019. M. O'Donnell seconded. The vote was unanimous.

COMMERCE WAY – The Board reviewed the draft decision and endorsed it as it was written.

## BOARD/STAFF REPORT

Ms. Ramsey said that the people from Direct Granite had been in to the office. They had submitted a plan showing that they had moved some of the asphalt but not all. Mr. Brennan said that they need to know if they meet the impervious surface requirement. He said there is a light pole in the back and he questioned why it was there when that part of the property should be returned to woods. Ms. Ramsey said she didn't know if the Board would require a major or minor modification. Mr. Biviano said to find out if they meet the impervious surface requirement.

Mr. Biviano moved to close the meeting at 8:00 PM. Mr. Pappastratis seconded. The vote was unanimous.

Respectfully submitted,

Kay Ramsey, Executive Assistant  
Marshfield Planning Board