

PLANNING BOARD
Meeting Minutes
Tuesday, September 18, 2012
Town Hall, 120 Main Street
7:00 PM

1 Present: J. Simons, R. Rowen, M. Colantoni, D. Kellogg, L. Rudnicki. L. McSherry

2 Absent:

3 Staff Present: J. Tymon, J. Enright

4

5 Meeting began at 7:00pm.

6

7 J. Simons: The continued public meeting for the Preliminary Subdivision Plan Appleton
8 Street will be postponed.

9

10 **BOND RELEASES**

11 Chatham Crossing: Doug Ahearn, Jeffco, Inc., to request release of a \$10,000 performance
12 bond.

13 J. Tymon: This property was conveyed from Jeffco, Inc. of Andover Mass to Ray Von Realty
14 Trust, 59 Chandler Circle, Andover Mass on September 8th, 2000. We have a copy of the
15 Quitclaim Deed that has been recorded at the registry. The subdivision is not complete;
16 however, Ray Von Realty Trust has a substantial bond that is sufficient to cover the
17 remaining work required posted with the Town.

18 **MOTION**

19 A motion was made by D. Kellogg to release the \$10,000 performance bond fund held for
20 Doug Ahearn, Chatham Crossing, including interest. The motion was seconded by M.
21 Colantoni. The vote was unanimous.

22

23 **ANR**

24 65 Russell Street: Proposal to create two lots from one existing lot.

25 The ANR plan was reviewed with the Board. Both lots meet the Zoning frontage and area
26 requirements.

27 **MOTION**

28 A motion was made by R. Rowen to direct the Town Planner to sign the Form A for 65
29 Russell Street. The motion was seconded by L. Rudnicki. The vote was unanimous.

30

31 **PUBLIC HEARINGS**

32 CONTINUED PUBLIC HEARING, 0 Great Pond Road: Application for a Watershed Special
33 Permit for construction of a single dwelling, porous pavement driveway, roofed porches,
34 deck, site utilities, and associated site grading on a presently undeveloped, buildable lot.

35 J. Tymon: A second plan has been submitted. L. Eggleston's recommends confirmatory soil
36 testing to verify soil suitability in the vicinity of the porous pavement driveway be included
37 as a condition of approval, as should ongoing maintenance requirements for the pervious
38 pavement and the restrictions on landscaping chemicals. All of Lisa's previous comments
39 have been satisfactorily addressed.

40 Jack Sullivan, Sullivan Engineering Group: An additional test hole was excavated where the
41 proposed driveway is to be located. It is consistent with the test hole that was excavated
42 where the proposed drywell is to be located. The Conservation Commission is satisfied

PLANNING BOARD
Meeting Minutes
Tuesday, September 18, 2012
Town Hall, 120 Main Street
7:00 PM

43 with the current plan; however, they have left the hearing open until this Board completes
44 its review. The limit of work has been pulled in on this plan to 50' from the wetland. There
45 will be a post and rail fence installed at the limit of work. There will not be any grading or
46 cutting past the stone wall on the side of the lot. Notes have been added to the plan and the
47 drywell has been increased from 500 gallons to 1,000 gallons.

48 The Board discussed the maintenance requirement for the porous pavement driveway and
49 whether this requirement should be conditioned in the Decision. The porous pavement can
50 be approved and a restriction that it can not be seal coated can be written in the Decision.
51 The pavement will need some maintenance. The porous pavement and the dry well are
52 included in the calculations that J. Sullivan produced and were reviewed by L. Eggleston to
53 make sure that stormwater runoff is being mitigated.

54 J. Sullivan: The calculations are conservative and even if the porous pavement got clogged
55 there would be some runoff from the driveway but the total house would still be recharged.
56 Although there is no requirement to do so, the drainage system has been sized for a 100
57 year storm. The drainage system proposed meets DEP Stormwater Standards. With any
58 drainage system there is some maintenance required. Detention basins and catch basins
59 need to be maintained.

60 Board discussed the proximity of the proposed structure to the wetlands and alternatives;
61 including possibly eliminating one of the three garage bays, moving the structure to the
62 right, and moving the house forward.

63 J. Sullivan: The structure is outside of the 50' no-build zone and the house is located and
64 orientated on the property due to the sight distances and safety concerns. The Zoning
65 Board approved the dimensions of the house with the setbacks as part of the Variance they
66 granted. The details of that plan are all included in the Variance. If the house were to be
67 moved from where it is located on this plan the applicant would have to go back to the
68 Zoning Board and Conservation Commission and start over. Moving the house ten feet
69 would not affect the drainage.

70 J. Simons: Asked if there was potential for development on the surrounding non-developed
71 lots.

72 J. Sullivan: The lot to the left is considerably wet and probably can not be built on. The
73 parcel to the right is also wet; however, it appears to be buildable.

74 L. Rudnicki: Recommended gutter guards on the roof and installing a silt box for the dry
75 well.

76 J. Simons: We will leave the hearing open and draft a Decision for the next meeting.
77

78 **PUBLIC MEETING**

79 **CONTINUED PUBLIC MEETING**: Preliminary Subdivision Plan Appleton Street: Application
80 for a proposed 11 lot Preliminary Planned Residential Development Subdivision Plan on
81 three existing lots comprised of approximately 21 acres of land (map 65, lots 8, 9, and 55).
82

83 As noted above the Public Meeting for Appleton Street is postponed.

84 J. Simons: Questioned the time period for rendering a Decision on the project.

PLANNING BOARD
Meeting Minutes
Tuesday, September 18, 2012
Town Hall, 120 Main Street
7:00 PM

85 J. Tymon: Explained that the Preliminary has to be approved or disapproved within forty-
86 five days of submission. The application was filed approximately one month prior to the
87 last Planning Board meeting. We should vote.

88 J. Simons: We should have an unfavorable Decision because it does not comply with
89 Zoning. They can resubmit a Preliminary.

90 **MOTION**

91 A motion was made by R. Rowen to deny the Preliminary Subdivision Plan for Appleton
92 Street because it does not comply with Zoning. The motion was seconded by M. Colantoni.
93 The vote was unanimous.

94

95 **DISCUSSION**

96 RED GATE: Certificate of Occupancy Lot 4

97 J. Tymon: As a condition for releasing the final lot of the subdivision the Planning Board
98 required that the entire drainage pond be constructed, curbing be installed, and the final
99 pavement coat be installed. These have all been completed. The site grading is complete
100 and the house on Lot 2 is almost completed. The Developer has submitted an as-built
101 grading plan for Lot 2 and a letter from a structural engineer that assures the Board that
102 the retaining wall construction is adequate to support the soil behind the wall.

103 R. Rowen: Requested that language be included that states that the homeowner can not
104 make any changes to the drainage system.

105 Rick Dellaire, Developer: There was a drain that was not on the original plan added to Lot
106 3 by a different builder. The issue has been fixed. There is no way that any changes could
107 be made to this Lot.

108 J. Tymon: Stated she will work with the R. Dellaire to develop language that could be
109 included in the deed.

110 **MOTION**

111 A motion was made by D. Kellogg to authorize the Town Planner to sign the Certificate of
112 Occupancy for Lot 2, subject to the discussion at tonight's meeting. The motion was
113 seconded by M. Colantoni. The vote was unanimous.

114

115 HILLARY STASONIS: Proposed change to Section 4.121.6 Agricultural Uses within the
116 Residence 1, 2, and 3 Districts.

117 J. Tymon: H. Stasonis is recommending changing the current Bylaw with regard to how
118 large of a parcel is required to keep chickens. Currently chickens are an allowed
119 agricultural use in Residential Districts 1, 2, 3 and 4 on parcels larger than three acres. The
120 Building Inspector enforces the Bylaw. He has recommended the Bylaw language include a
121 50' setback from a neighboring dwelling, the chickens should be enclosed at all times, and
122 that the enclosure should be covered.

123 Thomas Ralph, 1483 Salem Street: Stated that he is more focused on the setbacks than the
124 lot size. This recommendation is a return to North Andover's agricultural past and would
125 bring us to conforming to the neighboring communities.

PLANNING BOARD
Meeting Minutes
Tuesday, September 18, 2012
Town Hall, 120 Main Street
7:00 PM

126 H. Stasonis, 1514 Salem Street: Maintaining a proper setback is more relevant than
127 meeting a specific parcel size. Her proposal is for a 25' setback from neighboring dwellings
128 with no minimum lot size. Submitted a document to the Board that included a proposal for
129 revised Bylaw language, adjacent Town policies, average decibel levels of noise, and Bylaws
130 written specifically to allow backyard chickens from Billerica and Amherst. Roosters
131 would not be allowed. Reviewed decibel noise readings taken of chickens at Smolak Farms.
132 J. Tymon: Currently if the Building Inspector receives a complaint about chickens and the
133 parcel is less than 3 acres the homeowner has to demonstrate that the chickens are pets.
134 J. Simons: Requested J. Tymon to talk to other Towns about their Bylaw requirements and
135 get some feedback from them.
136 T. Ralph: Stated he will develop the language proposal and perhaps come back to the
137 Board to discuss the specific language. This will be the language they intend to take to
138 Town Meeting.
139 R. Rowen: The Board will make a recommendation to support the Article or not and it will
140 be brought to Town Meeting where a 2/3 vote will be required for approval.

141

142 DISCUSSION OF AMENDMENT TO FCC REGULATIONS

143 Tom Urbelis, Town Attorney: Advised the Board of the House Report 112-399 – Middle
144 Class Tax Relief and Job Creation Act of 2012 recently approved by the Congress and signed
145 by the President. Within this act is Section 6409 Wireless Facilities Deployment. This is a
146 Federal law. Like the Telecommunications Act of 1996 it pre-empts State law and local
147 Zoning. Telecommunication companies are replacing antennas and base stations that
148 service those antennas. The Building Inspector is the Zoning Enforcement Officer for the
149 Town. T. Urbelis has spoken with the Building Inspector (Gerald Brown) and the
150 Inspector's view, based on reading this Federal Law in conjunction with his reading of the
151 Zoning Law, is that if someone is to come to the Town for replacement of antennas they
152 would not need a Special Permit. The Building Inspector would require proof that the
153 facility is structurally sound, in compliance with the State building code. If they satisfied
154 him, in regards to those issues, a building permit would be permissible without having to
155 go through the process of a Special Permit Modification for a particular facility. This does
156 not apply to a new application for a tower. This is for an existing tower or facility. Co-
157 locations would also not require a Special Permit.

158 J. Simons: Does this render the requirement in the Bylaw to renew every three years mute?

159 T. Urbelis: No. It is still on the books.

160 R. Rowen: If a carrier does not obtain a Special Permit at the time they co-locate on an
161 existing tower we can not renew something they do not have. The Building Inspector
162 should verify it meets the FCC Act of 1996 for emissions and it is structurally sound.

163 J. Tymon: For co-location of new equipment the Building Inspector will enforce the
164 provisions of Section 8.9 Wireless Facilities?

165 T. Urbelis: Stated he could not speak for the Building Inspector. Each application should be
166 taken on a case by case basis.

PLANNING BOARD
Meeting Minutes
Tuesday, September 18, 2012
Town Hall, 120 Main Street
7:00 PM

167 J. Tymon: The applicant will speak with G. Brown and herself and G. Brown will determine
168 if they need a Special Permit.

169

170 **MEETING MINUTES:** Approval of September 4, 2012 meeting minutes.

171 **MOTION**

172 A motion was made by D. Kellogg to approve the September 4, 2012 meeting minutes. The
173 motion was seconded by L. McSherry. The vote was unanimous.

174

175 **ADJOURNMENT**

176 **MOTION:**

177 A motion was made by R. Rowen to adjourn the meeting. The motion was seconded by L,
178 McSherry. The vote was unanimous.

179

180 The meeting adjourned at 8:28pm.

181

182 **MEETING MATERIALS:** Agenda, Quitclaim Deed Doug J. Ahearn and George A. Hughes,
183 Letter dated Oct. 17, 2000 from Raymond Y. Cormier, Form A application 65 Russell Street,
184 ANR plan 65 Russell Street, 0 Great Pond Rd: email from L. Eggleston to J. Tymon dated
185 Sept. 10, 2012, Great Pond Rd. Site Development-Plan of Land 2 pages, Narrative from
186 Sullivan Engineering Group, LLC dated Sept. 5, 2012, Appleton Street Proposed P.R.D:
187 North Andover MIMAP dated September 10, 2012 indicating zoning districts, Article 9 from
188 Annual Report – Town of North Andover- FY 1987, Preliminary Conventional Subdivision
189 Proof Plan for “Regency Place” dated July 18, 2012 5 pages, Preliminary P.R.D. Subdivision
190 Plan for “Regency Place” dated July 18, 2012 6 pages, Red Gate Lane: Letter dated May 24,
191 2012 RE; Foundation Inspection 40 Red Gate Rd from Martel Engineering, Inc., Letter dated
192 Sept. 18, 2012 RE: Red Gate Pasture Subdivision from Pennoni Associates, Inc., As-Built Site
193 Plan Lot 2 Red Gate Lane dated Sept. 13, 2012, Proposed language for Backyard Chicken
194 Bylaw, Addressing Noise Concerns, By-Laws Written Specifically to allow Backyard
195 Chickens, Committee Reports 112th Congress (2011-2012) House Report 112-399 3 pages,
196 Letter dated Sept. 12, 2012 RE: 16 Berry Street/Riding Academy Preserve from Board of
197 Selectmen, draft 9/04/12 meeting minutes.