

**Town of Easton
Planning Board Meeting
November 1, 2018**

DRAFT COPY

Planning Board:

Denys Draper – Chair – *Present*
Anita Craven – Present
Bob Lamanna – Present
Frank Woodruff – Present
Zak Mei (SB ex-officio) – Present

Tom Boucher (Alternate) – **Not Present**
Jim Collier (Alternate) – **Not Present**
Bob Thibault (SB ex-officio Alternate) –
Not Present

Public in Attendance:

Roy Stever, Debbie Stever, Toni Woodruff, Scott Viveiros, Ed O'Brien, Carl Lakes, Kris Pastoriza, Tom Walter

The meeting was called to order at 7:10 PM by Denys Draper.

Minutes

- Amendments to the October 4, 2018 minutes:
 - On page one, correct misspelled names: Tara Bamford, Bob Lamanna, Scott Viveiros (throughout document)
 - In Members Present modify George Walter to Tom Walter and add second t on Scott.
 - Change the line “At this time the Chair recognized Mr. Thibault...” to “Mr. Thibault moved to address the audience and the board. Anita Craven seconded. The floor was given to Mr. Thibault.”
 - Add “to unseal” to the end of “The motion was seconded by Anita Craven. Roll Call Vote Unanimous.”
 - Strike out next bullet, “at the suggestion” and replace with “As stated in the motion, the unsealed minutes will be attached to minutes for tonight and July 5th.”
 - Under Viveiros 1, add after the bullet “Mrs. Craven made a motion to acknowledge...”
 - The Planning Board directed the Chair to forward a copy of the letter to Mr. Viveiros along with a statement that “the Planning Board agrees with the Select Board’s recommendation, and does not accept the road plan for the reasons given in the letter.”

- The statement should also say that “the road plan title should reference and match the title on the conditionally approved subdivision plat, and the lot numbers on the road plan should match the lot numbers on that plat.”
 - Under Viveiros II
 - Clarification of paragraph 1, “She pointed out that there was not a single average number for each lot but rather several numbers.”
 - Strike out next paragraph “The Planning Board also noted that there are inconsistencies with...” because it’s restating the bullet above.
 - Add, “at 8:42 PM the chair opened a hearing.”
 - Change “complained” to “observed” in the paragraph, “At this point, Toni Woodruff...”
 - At the end of the same paragraph, add “Discussion followed.”
 - In the next paragraph, starting “in the meantime...”, strike out “to remedy the situation to which Mrs. Woodruff has objected” to limit editorializing.
 - Change “tonight’s” to “as a continuation of discussion” and strike out “as a preliminary consultation.”
 - In the paragraph “Edward O’Brien objected...” strike out the sentence beginning “the chairperson was directed to speak with the clerk...”
 - In the paragraph beginning with “Edward O’Brien objected to...” separate so that italicized portion beginning with “As provided for in the Easton Subdivision” is a new paragraph.
 - Add in the approval of the minutes:
 - Minutes of September 6 Planning Board Meeting were approved with the following additions: In the V-I section, add a bullet that says “Anita Craven distributed average % slope data for of the three small lots.”
 - In the 7th bullet, insert “with a list of assertion” after “Scott Viveiros responded to the Board”
 - At the end add add “Minutes of the August Planning Board Meeting were approved as written.”
- Anita Craven moved that her list of amendments to October 4 minutes, with the minutes reformatted, be attached to the minutes. Bob Lamanna seconded. All in favor. None opposed. Passed.
- Anita Craven moved to accept the non-public session minutes from October 4, 2018. Bob Lamanna seconded. All in favor. None opposed. Passed.

- Roy Stever asked that his addendum also be added to the October 4 minutes. Toni Woodruff volunteered to make copies for the board and was thanked.
- After discussing points made in the Stever addendum, Bob Lamanna moved to include the Stever letter in the public record. Zak Mei seconded. All in favor. None opposed. Passed.
- Zak Mei moved to accept the all the October 4 minutes as amended and with Anita's attachment. Bob Lamanna seconded. All in favor. None opposed. Passed.

Planning Board Old Business

- **Viveiros SubDivision One**
 - Denys Draper asked if Mr. Viveiros had a curb cut. Scott Viveiros responded that engineer from DOT returned this week after being off work for a month and the DOT anticipates it will be issued very shortly.
- **Master Plan**
 - Bob Lamanna asked for a special meeting of the planning board to discuss the draft section plan for our vision to the future, proposed update on our community profile and discussing land use implications.
 - A special meeting focused only on the Master Plan will be held on November 29 at 7 PM.
 - Bob Lamanna noted that copies of survey comments are available in the office. Comments are only from the paper copies, not the online version.

Planning Board New Business

- **Presentation**
 - Kris Pastoriza presented proposed zoning ordinances regarding transmission lines. Currently, there are no ordinances to stop a company from upgrading to 85-foot poles. Proposals were in her letter given to the board.
 - Anita Craven noted that we may want to defer changes until after the Master Plan because it's a natural follow-up.
 - Frank Woodruff expressed his concern of trying to tell utility companies what to do and questioned whether the board has the expertise to be able to tell them how to construct their lines.
 - Denys Draper asked the board to look at this proposal as well as the subdivision regulations and be prepared to discuss them at the December meeting.

- Zak Mei stated that Tara Bamford can conduct a training session for the Planning Board. The board discussed possible meeting dates and Zak Mei will coordinate with Tara.
- Denys Draper emailed Toni the Board OGram entry for the Planning Board stating that it is working on the Master Plan and thanking people for their responses.
- Zak Mei stated the Planning Board budget should be finalized by January. Denys Draper asked the board to review the budget and be ready to discuss in December.

- **Viveiros SubDivision Two**
 - Denys Draper opened a public hearing at 8:37 PM for the second Viveiros subdivision.
 - Denys Draper read the last paragraph of a letter from the Stevers. The letter also included pictures of water on Paine Rd. This letter will go into the subdivision folder.
 - The board reviewed subdivision plans pointing out the slope density and calculations.
 - The board discussed whether utilities were an issue for the subdivision of raw land or only an issue for future construction.
 - Denys Draper asked Mr. Viveiros if he had a drainage plan. Scott Viveiros replied that there are no culverts on the road and no drainage plan was needed.
 - Scott Viveiros stated that because the Planning Board requires “field verified” drawings, which can only be done after the land is cleared, he has submitted all that he can. His engineer who has stamped the plans has indicated that he will submit “field verified” drawings once the land is ready.
 - In response to a bond question, Scott Viveiros replied that the bond is something between himself and the Select Board and not the responsibility of the Planning Board.
 - Anita and Scott discussed potential DES Subsystems Bureau review of the application, with Scott disagreeing on the necessity of such.
 - Anita Craven expressed her concern regarding the board’s duty to protect the town, the landowner and the potential landowners. A private road must meet town specifications because it could become a public road in the future.

- Tom Walter and Roy Stever discussed the pictures showing water on Paine Road. Tom Walter stated the water can't run off the road due to the sand berms.
 - Roy Stever questioned traffic impact noting that the new subdivision could double the number of people living on Paine Road. He expressed additional concerns regarding DES alteration of terrain permits, additional road length, bonding issues, conditional approval of the first subdivision, and concluded by suggesting the board seek a third party expert at the expense of the applicant.
 - Carl Lakes also advised the board to seek a third party expert for help on this matter.
 - Scott Viveiros stated that some members of the Planning Board have visited the road and within 5 minutes, they understand the plan. He explained that no work has been done within 25 feet of Paine Road and his subdivision has nothing to do with the ongoing drainage problem on Paine Road.
 - Scott Viveiros stated the subdivision, even when added together with the first one, does not exceed the 100,000 square foot limit for Alteration of Terrain permit.
 - The issue of proper hearing procedure was discussed.
 - Denys Draper closed the public hearing at 10:29 PM.
- Anita Craven moved to ask Scott Viveiros if he is willing to extend the deliberation time on Viveiros 2 by a period of 90 days (January 29). Zak Mei seconded. All in favor. None opposed. Passed.
 - After discussion, Scott Viveiros and Planning Board agreed to an extension until the December Planning Board meeting.
 - Zak Mei stated reservations regarding the necessity of Alteration of Terrain permit and the performance bond.
 - Anita Craven reiterated her concern of the DES subdivision approval.
 - Bob Lamanna moved to get a third party to help the board with this process. Anita Craven seconded. A roll call vote was taken. Frank Woodruff, no. Bob Lamanna, yes. Anita Craven, yes. Zak Mei, no. Denys Draper, yes. Passed 3-2.
 - Anita Craven stated that hiring of the third party should not be at the applicants expense.
 - Zak Mei moved that we construct a list of questions for the selectboard to consider passing on to a legal expert. Anita Craven seconded. Frank Woodruff, yes. Bob Lamanna, No. Zak Mei, yes, Anita Craven, yes. Passed 3-1.

- Denys Draper asked the board to submit any questions to Zak by Sunday so that he can compile the questions to present for Monday's Selectboard meeting.

Frank Woodruff moved to close the meeting at 11:05 PM. Anita Craven seconded. All in favor. None opposed. Passed.

Next Regularly Scheduled Planning Board Meeting – December 6, 2018 at 7 PM.

Respectfully submitted,

Claire Mei
Secretary to the Easton Planning Board

October 4, 2018 Planning Board Minutes with amendments (in bold) by Anita Craven:

The Chairperson called the Planning Board back into session at 8:10 PM.

Attendance was taken and a determination of a quorum confirmed.

Members/ Alternates Present:

James Collier (alternate, not seated as a voting member)

Anita Craven, Vice Chair

Denys Draper, Chair

Bob Lamanna,

Bob Thibault, *ex officio alternate (seated as Selectboard Alternate)*

Frank Woodruff

Absent

Claire Mei, Clerk

Zak Mei, *ex officio member*

Members of the Public Present:

Bunny Ford, Beth Harwood, John Hynes, Maria Hynes, Edward O'Brien, Deb Stever, Roy Stever, **Tom Walters**, Scott Viveiros, Toni Woodruff

The first piece of business was for the Planning Board to go into non-public session as prescribed by NHRSA 91-A. The reason stated was to discuss legal advice from town counsel.

A Motion was made by Bob Thibault to go into non-public session.

This motion was seconded by Anita Craven.

As required, a roll call vote was taken. Anita Craven, yes; Bob Thibault, yes Denys Draper, nay; Bob Lamanna, yes; Frank Woodruff, yes.

The audience was asked to leave the room and the room was secured.

At 8:15, the Planning Board went into non-public session.

The public meeting was reopened to the public at 8:27

A motion to seal the minutes of the non-public session was made by Robert Thibault and seconded by Anita Craven. A roll call vote was unanimous. The Minutes of the non-public session are sealed.

At this time the Chair recognized Robert Thibault to address the audience and the Board. **Mr. Thibault moved to be allowed to read a statement.** Anita Craven seconded. **Motion passed.**

The floor was given to Mr. Thibault. Mr. Thibault read the following statement:

- o "Town residents have brought to the Planning Board's attention concerns about compliance with RSA 91-A in connection with a non-public session held during the Planning Board's July 5 meeting. After consultation with legal counsel, and with the assent of a majority of this Board, I would like to make the following public statement in order to bring the Planning Board's records into compliance with RSA 91-A and to render further legal action with regard to the July 5 non-public session unnecessary.
- o I was in attendance at the July 5 meeting as a member of the public, because I was the ex-officio alternate but not seated. Zak Mei sat on the Board as the ex-officio member.

- o Toni Woodruff was also in attendance at the July 5 meeting as a member of the public.
- o At 9:20 pm, the seated Planning Board went into a non-public session pursuant to RSA 91-A:3, II(c), “matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting.”
- o I and Toni Woodruff were asked to join the Board for the non-public session.
- o The general purpose of the non-public session was to discuss concerns raised by Scott Viveiros to the Selectboard at the Selectboard’s July 2 meeting concerning the Chair of the Planning Board, Denys Draper.
- o Although the Planning Board went into non-public session with the good faith desire to not embarrass Ms. Draper or unduly harm her reputation, we now understand that it was not appropriate to go into non-public session because the Planning Board was discussing a member of the Planning Board itself, and because the discussion concerned Mr. Viveiros’s and the Stevers’ complaints about Ms. Draper’s official functions as Planning Board chair, and did not impact her reputation as a private citizen.
- o We do not believe that my participation and Toni’s participation in the non-public session constituted a “meeting” of the Selectboard under 91-A, because we were only reporting information to the Planning Board, not deliberating. However, we also recognize that Toni and I should have been excused from the non-public session after reporting our information, and that our further participation in the non-public session after the discussion shifted from Ms. Draper to the Viveiros subdivision potentially renders the entire session open to the public.
- o In light of all of the foregoing, I state for the record with the support of a majority of the Board that the non-public session held on July 5 should have been open to the public.
- o Furthermore, I move that the Planning Board now vote to unseal the minutes of the July 5 non-public session and attach them to this meetings minutes as well as the July 5th meeting minutes.”

The motion was seconded by Anita Craven. Roll Call Vote Unanimous **to unseal.**

~~At the suggestion of several board members as well as the chair, a reference to tonight's minutes/ decision will be attached to the formal record for July 5th to aid in understanding the change in the status of the “non-public” session as stated in those minutes.~~

As stated in the motion, the unsealed minutes will be attached to minutes for tonight and July 5th.

At this point Roy Stever objected to the remediation of the July minutes because at the time he had been preparing his appeal to the ZBA along with other materials. He stated, without seeing the July 5th non-public minutes, he could not prepare an adequate case. He was informed by the chair that the Minutes were unsealed as of Oct 4, 2018. He could now view them legally.

Notification from the ZBA

Stephan Nix's appeal on behalf of the Stevers was sent to the ZBA. The findings of the ZBA are as follows:

“... the appeal of Roy and Deborah Stevers be dismissed due to lack of standing by reason of their

*failure to identify any particularized harm to them from the action of the Easton Planning Board in approving the Viveros subdivision application.”
(from ZBA minutes 9/24/2018).*

Roy Stever indicated that there would likely be further action taken on this issue.

Viveiros 1

A letter from the Selectboard was read into the minutes by the chairperson. This letter was in response to the Planning Board's request that the Selectboard look at the road design plan submitted to the Planning Board. The Selectboard determined that the plan was not acceptable. A copy of that letter is included here.

“As provided for in the Easton Subdivision Regulations IV-Ca, the Select Board and Road Agent have for the the Planning Board reviewed the Pine Needle Road construction plan as one of the conditions of a final subdivision approval.

The Select Board finds that the road plan as submitted is deficient in the following areas:

It fails to meet the requirements of section III – H:6; especially in that there is no cross sectional profile and has no certification seals. There is also no drainage design as required in this section as well as in section V-D:4.

The Select Board visited the proposed Road site on Tues, Sept 18, viewing the site from Paine Road.

The Board viewed obvious sediment runoff from the proposed roadway alongside and across Paine Road further highlighting the need to submit required drainage plan.

The Selectboard recommended to the Planning Board not to accept the Road Construction Plan as submitted until all applicable subdivision road criteria have been met.”

Mrs. Craven made a motion to acknowledge receipt of the Selectboard letter. Bob Lamanna seconded the motion. After discussion, Mrs. Craven withdrew her motion.

The Planning Board directed the Chair to forward a copy of the letter to Mr. Viveiros along with a statement that “the Planning Board agrees with the Selectboard’s recommendation, and does not accept the road plan for the reasons given in the letter.”

The statement should also say that “the road plan title should reference and match the title on the conditionally approved subdivision plat, and the lot numbers on the road plan should match the lot numbers on that plat.”

It was the consensus of the planning board members present that the Planning Board could take no further action on this application at this time. The criteria for final approval have not been met.

Viveiros II:

Mr. Viveiros produced a map that he said met the required density test. Mrs. Craven disagreed that it was sufficient. She pointed out that there was not a single **average** number **for each lot** but rather **several**

average numbers. The chair, along with Mr. Lamanna determined that there were appropriate stamps present on the map. Also present was a north arrow and a legend.

~~The Planning Board also noted that there are inconsistencies with regard to the legends on the subdivision plat for this subdivision and the road plan. The map and lot numbers do not match. This needs to be remedied.~~

Anita Craven, vice chairperson, noted that the DES requirements in ENV- WQ 1005 had not been met. These rules apply to all subdivision applications in the SHRD District. It was determined by a consensus of members present that the board could not proceed.

At 8:42 the Chair opened a Hearing.

At this point, Toni Woodruff ~~complained~~ **observed** that the Chair could not call the public hearing to order because she had not called one to order at the previous meeting, even though it had been noticed. ~~There was discussion that a failure of the chairperson to do so made it impossible to call a continued hearing, even though that had been stated at the previous meeting. A new hearing could not be called, according to Mrs. Woodruff, without noticing it.~~ **Discussion followed. The Hearing was closed.** Robert Thibault will check this with the town attorney.

In the meantime, ~~to remedy the situation to which Mrs. Woodruff has objected,~~ the chairperson will see that the hearing is renoticed and that the abutters are renotified as appropriate for *the next regularly scheduled meeting of the Planning Board*. The consensus of the Planning Board was that no more could be done without the required information.

The Planning Board labelled tonight's ~~as a continuation of discussion as a preliminary consultation~~ on how to proceed with the application.

Miscellaneous

Minutes of the September 6 Planning Board Meeting were approved with the following additions:

In the V-1 section, add a bullet that says "Anita Craven distributed average % slope data for of the three small lots."

In the 7th bullet, insert "with a list of assertions" after "Scott Viveiros responded to the Board"

Minutes of the August 5 Planning Board Meeting were approved as written.

Edward O'Brien objected to the chair person taking minutes in the absence of the clerk. ~~The chairperson was directed to speak with the clerk to see if she intended to continue in her position.~~ The chairperson **said she** will contact the clerk.

Mr. Lamanna made a motion to adjourn the meeting. This was seconded by Mr. Woodruff. The meeting was adjourned at 10:57 PM.

Denys Draper,
Chair