

# PLANNING BOARD MINUTES

May 13, 2024

On the above date Planning Board Chairman Barry Horas called the meeting to order at 7:00 PM. After the Flag Salute he made a statement in compliance with Sunshine Law.

## **Roll Call**

Members Present: Kathy Brady, Mayor Niki Giberson, Gail Haviland, Robert Haviland, Barry Horas, Bill Montag, Donna Riegel, and Paul Smisek.

Board Attorney Joe McGroarty, Engineer Matt Doran and Board Secretary Vicki Cantell

Absent: Kevin Cain and Joe Martin

**Minutes** – On the motion of Bob Haviland, second of Gail Haviland and carried unanimously to accept the minutes of January 8, 2023.

**City Council Report** – Mayor Giberson noted that the Redevelopment plan was being prepared to go to bid, Mill Street paving was be happening shortly while Adams and Holly Creek Avenues are also planned to be repaved.

## **NEW BUSINESS - Bridge, Block 24 Lot 6 Variance**

Tom Darcy, attorney and planner. appeared representing Kathy Bridge. Both were sworn in. The application is to build a one and a half story single family home on an existing lot owned by her family. Her brother is the executor of the estate and has given Kathy permission to pursue the variances. This lot has existed from 1963 after the Parkway took acreage from this area in 1950s and was subdivided prior to zoning being in place. The lot was purchased by the Crevling family in 1972. Under a legal ruling in 1981 the unpaved road know as Blight's Lane was declared a private road. There are two existing homes using Blight's Lane as access. Zoning requirements for this area requires five acres while this lot has 1.56 acres.

The application is requesting three variances: C – a bulk variance for the size of the lot; a second C – for frontage, the lot is 171.5' where 200' is required and a Planning variance to build on an unimproved road. The attorney has letter to the adjoining properties to try to obtain additional land but neither neighbor pursued that option. Mr. Darcy stated that he believes that the planned use as a residential home adheres to the Master Plan. He further stated that the one and a half story home is a reasonable size appropriate for the area. All other building requirements such as set-backs and lot coverage area will be met. This will not be a detriment to the public good.

Blight's Lane has been used for 40 years by the existing homes across the lane. They belong to the Crevling family (Lot 10) and Brandon Kurtz (Lot 4) and that lot is 6.4 acres. The Kurtz Lot 4 had a variance previously approved by the Planning Board and is required to maintain the lane as part of that variance. It would be a hardship to have the lane paved as it would

not be practical due to the high cost. Cathy Bridge has stated she is planning to widen the lane that is now 9'-10' by adding a turn-out. Under the Country Road law that allows for building on roads such as Blights Lane, a 20-foot section will be widened to 18 feet allowing for on-coming vehicles to pass. Mr. Darcy has sent the proposed plans to both the city fire department and the covering emergency ambulance without receiving any response. The law also states that each property commonly has 10 trips per day with 50 trips per day being the limit on this type road. With the addition of this proposed home the total would be 30 and thereby being substantially under the limit.

The Board questioned whether there was a right-of-way across the property fronting Chestnut Neck Road. Mr. Darcy stated no easement exists in writing but the lane has a sixty-year history of being used thereby giving a presumptive right to all properties.

Donna Reigel noted that the proposed millings are not eco-friendly and inquired if there was an alternative. Mr. Darcy replied that at this point maintenance of the lane was the responsibility of the owner of lot 4, Mr. Kurtz, and therefore not in the applicant's power to change it. If approved the Board will require the owner of lot 6 to also be responsible for lane maintenance including cutting back tree limbs and that this requirement would need to be included in the deed. At some point, if the application is approved, a change of road material could be discussed with Mr. Kurtz.

Mr. Darcy was asked if the Crevling property could be subdivided. He replied that it could be possible but would need to go through the same Planning Board approval.

Paul Smisek noted that in the letters sent to the neighbors inquiring about purchasing additional land or the option to buy this lot the amount seemed high for an empty lot. Mr. Darcy explained that by having the lot prior to the zoning changing by law the owner has the right to ask for fair the current market value as if it were a buildable lot. The law is designed to protect the seller's expected right to its being buildable.

Matt Doran was asked his opinion on these matters. He noted that in 1982 an official map was approved for the city and subsequently the courts ruled that Blights Lane was a private road and did not belong to the city. Only city roads on the official map are maintained. Private roads are not maintained and must be maintained by the owners. He further agreed with the turn-about and noted there are no wetlands on the property. When questioned regarding the use of millings he stated that there was the option of crushed concrete but the cost was higher.

Paul Smisek expressed concern regarding having enough parking for multiple emergency vehicles. He noted that as a volunteer fire company, beside the fire engine, many volunteer cars respond. Mr. Darcy replied that the fire company did not respond.

Bob Haviland asked how far from the Crevling lot was from the public road and Mr. Darcy replied about 600 feet.

A motion by Mayor Giberson was made to approve the application. No second was made. Mayor Giberson stated that if the application was not approved the Board was making the lot worthless which is not allowed by law. The city was then open to a law suit or would need to purchase the property. The city cannot afford either at this time. Both our attorney Joe McGroarty and Mr. Darcy agreed with the Mayor and explained in further detail.

A discussion ensued concerning ways to ensure the lane was maintained for safety reasons. Bob Haviland also noted out that there could be issues with deliveries as both FedEx and UPS use box trucks. How would large vehicles be able to turn to get out were raised. Concerns about enough parking should the owner host parties were mentioned. Mr. Darcy stated that the new property's driveway would be in close proximity to the other two driveways making a K-turn possible. The possibility of other options was suggested.

Bob Haviland seconded the motion.

Donna Reigel stressed her concerns regarding safety issues for vehicle access and that lane maintenance be included in the deed to ensure future owners are aware of their responsibility. She was also concerned with over-sight to ensure compliance. Mr. Darcy suggested a letter with a picture be submitted yearly. The owner agreed to the condition. A copy of the Board resolution will be attached to the deed.

The motion, with all conditions included, passed by roll call vote. Those in favor were: Kathy Brady, Mayor Niki Giberson, Gail Haviland, Robert Haviland, Barry Horas, Donna Riegel and Paul Smisek. Bill Montag voted no.

**OLD BUSINESS** - None

**OPEN TO THE PUBLIC** – There was no reply from those in attendance.

**CORRESPONDENCE**

**Brogdon, 138 Old New York Rd** – Notice received of wetlands delineation being requested.

**Beebe, 277 Main St** - Notice received of Costal General Permit-Certification 15 (building addition)

**BILLS** – On the motion of Donna Riegel, second of Mayor Niki Giberson and carried by unanimous roll call vote to pay Matt Doran and Joe McGroarty.

**ADJOURNMENT** – On the motion of Paul Smisek, second of Bob Haviland and carried unanimously to adjourn the meeting at 8:37 PM.

Respectively submitted,

Vicki L. Cantell, Board Secretary