

East Longmeadow Planning Board

60 Center Square

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since 1894

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Minutes of February 15, 2017

Present were: Chair, Ralph Page; Vice Chair, George Kingston; Clerk, Tyde Richards, Michael Carabetta and Deborah Bushnell.

Request for Signage – Kenny Nitching, Eagle Scout Project at the Center Field

Mr. Page said that Mr. Nitching was at their last meeting and there were a couple of concerns the Board had. He said one was the name on the sign. Bruce Moore who is extremely knowledgeable on the town's history has informed the Board that the name of the group of fields has always been Center Field. Mr. Page suggested that the name on the top of the sign be changed to "Center Fields". He said that the back of the sign has been changed from the first time he submitted the request and asked the reason for that wording change.

Mr. Nitching said that they had a discussion with the Recreation Department and that was what they suggested for the back of the sign.

Mr. Page said the back of the sign says "play hard, play smart, play together, have fun" and asked the Board for their thoughts and the Board said that they liked it. He said that he noticed at the bottom of the sign is a removable plate that can be flipped over to say either lacrosse field or soccer field depending on what is being played at that time and asked if that is the only removable one.

Mr. Nitching said the Center Softball one could be removed because the name could change in the future because they didn't want to have to take out the whole sign just to change the name.

Mr. Page addressed the Board for any questions.

Mr. Kingston asked where it is going.

Mr. Page said that it is a generalized location and what Mr. Peirent asked that a few days before the installation of the sign that he is contacted so that they can decide

exactly where they want it. He said that the concern was the mowers going around it, whether it's in the way if the athletes are playing and that was why as a Board they decided to put that on Mr. Peirent who is in charge of the properties.

Mr. Kingston said his only real concern would be the site lines as people approached the center.

Mr. Carabetta said that he would imagine that DPW will be right on top of that.

Mr. Richards asked what the name will be.

Mr. Page said East Longmeadow Center Field is the name and everything will stay on the directional and the last sign can be flipped over to say lacrosse field or soccer field.

Upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted unanimously (5-0) to approve the sign as presented contingent upon Mr. Peirent setting the location for it.

Continuation Public Hearing – Zoning Change Parcel 15-32-E, Grove Avenue

Michael Carabetta recused himself as he was the applicant.

Chair, Ralph Page continued opening and explained the procedure of the hearing and asked the applicant to explain what it is he would like to do.

Michael Carabetta, 202 Allen Street said that he is in an agreement to buy a parcel of land between Glendale Road, Baldwin Street & Grove Avenue. He said that he asked the Board to make a recommendation to Town Council to rezone part of the land from industrial to residential. Mr. Carabetta said sometime in the 1950's early 60's the top part of the land was changed over to residential and he would like to extend that boundary east. He said to the west & to the north it is surrounded by residential land and to the east are the old railroad tracks, the conservation buffer and then another strip of industrial land which is conservation land. Mr. Carabetta said to the right of the parcel is roughly 2 acres of wetland which is unusable and is currently industrial and is asking for that to be changed to residential. He said whether it's industrial or residential it will still be unusable and he is asking for 3 acres of usable land to be changed and roughly 2 ½ acres will remain industrial.

Mr. Page addressed the Board for any questions and said that he had the current zoning map that was revised at Annual Town Meeting May 2007.

Ms. Bushnell said that Mr. Carabetta is looking to change the parcel that is adjacent to the old railroad tracks which is currently zoned industrial, change it residential with less impact on the residential potentially.

Mr. Carabetta said in this particular instance industrial is more of an impact then residential.

Mr. Kingston asked what zone he would like it to be changed to. Mr. Carabetta said Residential C to coincide what is currently there. Mr. Kingston said he is very familiar with the property having looked at it for previous proposals for it. Mr. Carabetta said that there have been many proposals for it and most of them were for industrial uses.

Mr. Page addressed the audience for any questions.

Phil Abair, 5 Fifth Street commented that in reading the notification letter and the way it was phrased he thought that the whole parcel was going to be rezoned to residential. He said that he would be affected by the change because the change is not as complete as he thought it would be. Mr. Abair said that he really doesn't see the benefits and if someone wanted to build houses on the parcel then build them because they could be built in industrial without it being rezoned.

Mr. Page said under the current zoning by-law residential is not allowed in industrial. He said that there are a few grandfathered houses that do exist in industrial.

Mr. Abair said that he understands that but his point is that it is a form of spot zoning because they will only be rezoning part of the lot and leaving the residential residents hanging with that industrial piece of property. He said that he didn't understand and hasn't heard what the benefits are to rezone it from them. Mr. Abair asked if they will be causing a problem by doing a partial rezoning by setting precedence by their vote.

Mr. Page said that the zone lines in town don't always follow property lines. He said that the basic question presented was if there is a specific benefit to the town that Mr. Carabetta feels by doing it.

Mr. Carabetta said in his opinion all the residents will be affected negatively if there is an industrial complex or industrial like buildings, facilities in your backyard. He said if it was deemed residential there would be no negative impact on the home values. Mr. Carabetta said he can't say if it going to increase the home values. He said the alternative would be to develop it completely as industrial which would mean that the neighbors would have an industrial complex in their backyard, side yard, etc. Mr. Carabetta said that it might not be the best idea but right now he thinks it's a practical use as for it being surrounded by residential. He said the area by the railroad tracks will not be used because it is industrial and conservation and the one little bit that attaches to industrial is fair to keep it industrial. Mr. Carabetta said there is no shortage of industrial property in town where there is a shortage of residential property in town and he has spent many hours on the proposal with other individual and came up with what they thought was the best use for the property.

Mr. Abair recommended to the Board that the entire parcel be re-zone to residential.

Glenn Gagner, 51 Linden Avenue asked when the land gets re-zoned to residential that's with no plans or anything for the development, that's a separate meeting.

Mr. Page said yes if Mr. Carabetta chose to come in with a subdivision or anything like that it's a whole separate public hearing. He said typically its two different public hearings.

Mr. Gagner said that he has never been involved with the town politics and asked when it was originally laid out with residential and industrial wasn't it a balance because it seems to him that the industrial land brings in income where residential does have income but also has burden and the burden is fire, police, utilities, school systems. He said that it seems to him that industrial would bring revenue to the town and he would consider keeping it just because he believes in income. Mr. Gagner said that he doesn't want it to turn into a town that everyone is paying high taxes because there is not a lot of income for that. He said that he wants to understand that they have some say in the actual development because obviously other land could be bought and it could be expanded into something much bigger in the other end of it.

Mr. Page said if it ends up going through to residential C and Mr. Carabetta decides to put houses in there it would be considered a subdivision of the land and he would have to come back to the Board with full plans and a full description of everything.

Tom Morrisette, 84 Cooley Avenue said that he wanted to address one of the comments that were made using the term "spot zoning". He said the definition of spot zoning would be if they were going to put a business zone right in the middle of where Mr. Carabetta is changing it to residential. He said it is residential C right next to it and he is going to put residential C with it and it is not being spot zoned it is expanding what is already there. Mr. Morrisette said that something is not being placed different and he doesn't consider it spot zoning and he thinks it's a great use of the property. He said that it protects the neighborhood even more from the industrial district and the section that is being kept industrial is protecting the end of Baldwin Street with keeping it that way. Mr. Morrisette said that he thinks it's a positive for the general area and thinks it's going to make that whole neighborhood really nice and is in favor of it.

Peter Levesque, 123 Orchard Road said that he also thinks it would be a good use of the property in that it would provide protection for the other residents. He said also if it could be affordable homes in a residential atmosphere that would be a plus for the residents of East Longmeadow.

Mr. Page addressed the Board for any further questions or comments.

Mr. Kingston said that he has a couple of comments, one being the industrial zone that extends all the way down to the south end of town which was established when the railroad was there and it was established as industrial because the railroad was something that could serve as industry and it was felt with an active railroad there industry was appropriate. He said that the railroad is no longer there and most of that industrial zone is now businesses and there are a couple of industries there but most of in fact it is businesses until you get to the industrial garden park area. Mr. Kingston said the zone itself is a relic of something from long ago that is no longer relevant and thinks it can be converted either bit by bit or as proposed by Mr. Carabetta. At least a portion of it to something that is more appropriate rather than have large industries go in there.

Ms. Bushnell said being that it is adjacent to residentially zoned and existing residential properties she feels just changing parcel C1 to residential is beneficial to that area. She said with industrial there is no clock ticking when someone can operate their facility, no hours of operation, any height restrictions and different lighting restrictions and if it was ever developed it could be detrimental to the residential properties.

Mr. Carabetta said now that railroad tracks are gone and if they were to overlay a zoning map he thinks it would be a fair bet to say it would be probably considered residential because some of the areas that abut it currently have been since converted to residential, some of it is conservation, some of it is business but there is a small section that has been converted to residential that abuts right up to the old railroad tracks.

Mr. Page said from Westwood Avenue down to Grove Avenue all along the railroad tracks is residential C and it has already been split up. He said that he was looking at the actual current zoning districts that were revised at Annual Town Meeting, May 2007.

Mr. Richards asked Mr. Carabetta if he is buying the entire parcel. Mr. Carabetta said that is his plan. Mr. Richards asked what would be the reason why he may not want to convert that small piece of industrial as well. Mr. Carabetta said while there is plenty of industrial land in town he still thinks there is a use for a smaller parcel. He said that a lot of the industrial parcels that are available currently are much larger, 30 to 40 acres and he does see the need for a useable small piece.

Mr. Page re-opened the hearing to the public for anymore comments or discussion. He said that the Board is acting on what has been submitted, they have the right to request a zone line or a zone change and it's the Board's decision whether or not it's feasible, accurate, whether it's good or not and can't tell the owner what to do with their property.

Mr. Kingston commented that as a Board they will not make the zone change but will make a recommendation to Town Council who makes the decision for the zone change. He said that Town Council will also hold a public hearing.

Phil Abair, 5 Fifth Street said that he would recommend to the Board that they turn the zone change down and have a discussion with the petitioner to re-zone the whole thing to residential. He said also when notification letters are sent to the abutters that it states what it's going to be.

Mr. Page said that the letter that goes out is a notification that a public hearing is going to be held so that the public could come in to see what's going to be presented. He said that the Planning Board has always done notification to anyone within 300 feet of the area.

Mr. Abair said that the letter lends itself to vagueness and misrepresentation and asked if it is normal practice that he gets a visit from the petitioner 2 days after he went to town hall to look at the proposal.

Mr. Carabetta said as a citizen he went to town hall and asked if anyone stopped in to ask to see the plans or ask for any information and Mr. Abair's name was given to him. He stopped by Mr. Abair's house to try and explain his proposal and to try to dispel the rumors Mr. Abair had heard and unfortunately a lot of those rumors were wrong. Mr. Carabetta said that was why he wanted to spend time with Mr. Abair so that if he had any questions he could answer them for him in a private setting and that was his only intention.

Mr. Kingston said that he has sat through a lot of hearings and has seen a lot of letters go out. He said that the Board does not know what the petitioner is actually going to present as a final plan until the petitioner comes in with a plan and the hearing is closed. He said until the hearing is closed the petitioner has the right to change his plans and continue his hearing and come back again before the Board. Mr. Kingston said that they cannot in a letter say precisely what is going to be presented because they don't know what is going to be presented until it is actually presented to the Board and the hearing is closed and they are not allowed to accept any more changes to them. He said that is why the letter is sent out in general and that is why people who are concerned are invited to attend the hearing so that they can be heard and learn what the final proposal will be.

Mr. Morrissette said that he wanted to point out that Ms. Bushnell was correct. He said when the American Highway Sign Company was located in the Aditus building that was a nightmare for the neighborhood because of the industrial use of that property. He said that they were very loud machines and there are no restrictions for the kind of industrial use that could be used on that property and this proposal is so much of a better deal for the abutters.

Mr. Carabetta said a lot everyone may not know is that the industrial zoned property is the least restrictive so anything can go there, no hours of operation mandates, no sound mandates, basically anything that can run as a business can run as a business at any hours.

John Reynolds, 74 Edmund Street said that it was the first they heard of it and they were present a while back about other things happening and they just wanted to know what it was all about.

Mr. Carabetta explained that the whole property extends from Baldwin Street all the way to Grove Avenue. He said that he is hoping to change the line east through the property from industrial to residential.

Mr. Reynolds asked what the purpose of that is.

Mr. Carabetta said the purpose of it is to build houses on it and because there are residential areas that surround the area. He thought the best use of the land would be to change it to residential to coincide with the residential area that is already there. He said he would keep the industrial area that is already there to coincide with the industrial area that is on Baldwin Street.

Mr. Reynolds asked Mr. Carabetta if he owns the property.

Mr. Carabetta said not yet.

Mr. Reynolds asked Mr. Carabetta what kind of development he plans to build.

Mr. Page said obviously single family houses. If the zone change goes through, the Board must hold another public hearing. He said right now the Board is looking at Mr. Carabetta's request simply for a zone change to go from industrial to residential C on that portion of the lot.

Mr. Carabetta said that it makes no sense for him to do any of that right now and spend the money if he didn't have a rainbow at the end of the tunnel and it is the first step of the process.

Mr. Page told the audience that the Planning Board simply votes for a recommendation and their recommendation goes to the Town Council. He said ultimately it is the Town Council who makes the decision regarding a zone change. Mr. Page said that Town Council will bring it up at two meetings and hold one public hearing.

There being no further questions from the audience, Mr. Page addressed the Board for any further questions or comments.

Mr. Kingston said that it seems to him that they have the information that they need.

Upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted unanimously (4-0) to close the public hearing.

Mr. Page addressed the Board for their thoughts.

Mr. Kingston said that his thought is that it is an improvement on a portion of the property and the rest of the property is not changing, it's not getting any worse and he would like to recommend the zone change.

Mr. Page said under further discussion that he would also like to note he said that there are pros and cons to both but he is looking at how much residential abuts it and he thinks that it would be extremely detrimental if a manufacturing facility was to go in right next to all the residential C houses that do exist there, as the industrial could run 24 hours a day.

Mr. Richards said that his only thought would be if he lived in that neighborhood he would rather homes behind him than industrial and thinks it will be an improvement to the neighborhood.

Upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted unanimously (4-0) to recommend to the Town Council that a portion of the parcel be changed to residence C portion as shown on the plan presented.

Upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted to recess for 5 minutes.

The Board reopened their meeting.

Discussion regarding proposed by-law changes for pre-existing, non-conforming lots

Mr. Carabetta said that he sat down with Ms. Macdonald to write up some language about pre-existing, non-conforming lots that they use and accept but don't have it in writing. He said that it is something they do as a practice but don't have the writing to represent it in the by-laws. Mr. Carabetta said that he knows there are a couple of gray areas they have run into. Mr. Kingston said that to make a lot less non-conforming it does not lose its grandfathering. Mr. Carabetta said correct. Mr. Kingston asked if Town Counsel agrees that is in compliance with Mass General Law. Mr. Carabetta said that he hasn't gotten that far yet and he knows that there is a stipulation in the town's by-laws that a lot cannot be reduced so the wording would change a little bit but thinks there is another clause 40A Section 6 that says a grandfathered lot cannot be reduced it doesn't say a lot can't be increased. Mr. Kingston said that he feels before they move forward he would like to get Town Counsel's opinion or somebody at the state level whether or not it is legal under state law. Mr. Carabetta said historically the Board has done it in the past and it has been done in other municipalities and it's unwritten. He said that they have had verbal debates about what's written and not written and the ambiguity of the language has to be presented. Mr. Kingston said that Chapter 41 is vague on it. Mr. Carabetta said that he wasn't disagreeing with that and has a file of court cases and has spent many hours with Town Council and thinks they have come to some sense of agreement or path forward. He said again it is just language that is not written and it's a practice that they do but there is no language that says they can't.

Mr. Page asked if it was strictly for residential. Mr. Carabetta for right now and he said at a previous meeting there was a discussion brought up about moving a lot line. He said the instance came up while it's beneficial they still have the language to it.

Mr. Kingston said again he thinks it is a good idea and again before they schedule a public hearing and advertise it they should get an opinion whether or not they can do it.

Mr. Carabetta said from a land use term someone can have a lot that conforms and have the right to add land to it.

Mr. Page said that he believes the law was changed where an addition was made to an existing non-conforming structure without a building permit after 10 years it is considered grandfathered. Maybe they could ask for a Section 6 finding to add a porch. Mr. Page said that he read over the language and he would like to hear attorney Jim Donahue's thoughts on it and get a written opinion from him.

Minutes

The Board reviewed the minutes of January 17, 2017 and upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted (5-0) to approve the minutes.

With no further business and upon motion duly made by George Kingston and seconded by Deborah Bushnell, the Board voted 5-0 to adjourn at 7:00 p.m.

For the Board,

Ralph Page, Chair