



MINUTES OF THE  
March 14, 2019 Meeting of the  
Town of Easton Planning & Zoning Commission

**Members Present:** Talbot Bone - Chairman, Dick Tettelbaum, Don Cochran and Jennifer Dindinger (Alternate)

**Members Absent:** Vicky McAndrews and Paul Weber

**Staff Present:** Lynn Thomas - Town Planner, Sierra Crist - Current Planner/GIS Analyst, Sharon VanEmburch - Town Attorney, Rick VanEmburch - Town Engineer, Katie Reedy – Assistant Town Engineer, Joe Mayer – Plan Reviewer, Trevor Newcomb - Planner

**Approval of Minutes**

---

Upon Motion of Mr. Tettlebaum and second by Mr. Cochran, the Commission voted 4-0 to approve the March 14, 2019 Agenda.

Upon Motion of Mr. Cochrun and second by Mr. Tettelbaum, the Commission voted 4-0 to approve the February 21, 2019 meeting minutes.

**New Business: 510 Idlewild Avenue – Addition** **Brett Ewing, Lane Engineering**

1:00 PM

Brett Ewing of Lane Engineering spoke on behalf of applicant for a site plan review for two-story building addition at Easton Orthopedic Center located at 510 Idlewild Avenue. In addition to Mr. Ewing, Doug James, representing the Owner and Bob Frank, Tenant of Shore Health Systems, were also present. The existing building has been in place for at least 20 years. There was also an addition to this building about 15 years ago.

Associated with this, Mr. Ewing is proposing a submerged gravel wetlands to comply with the Town's stormwater management regulations that will conflict with the forest conservation area that was approved with the 2005 project. Mr. Ewing has met with Town on several occasions and has come to an agreement that they can impact the area. The Town will accept fee and lieu of the area that is impacted. From an architectural view, they are proposing the same material that matches the existing building.

Mr. Frank mentioned that the practice has been growing over the last several years. They have brought on more providers, the need for physical therapy and additional office space are some of the reasons for this request.

Mr. Cochran asked about the proposed stormwater drainage system and its impact on the amended forest conservation area. Mrs. Reedy explained that stormwater management area needs additional space. Ms. Dindinger asked does this mean that trees will be cut down in order to install the submerged gravel wetlands. Mrs. Reedy responded yes. Ms. Dindinger asked any reason if the applicant could leave the trees where they are and use something different like permeable pavers? Mr. Ewing responded ESDR target would not have been met. Ms. Dindinger asked is it possible to do an alternative from removing the trees. Mr. Ewing responded that the proposal is the result of meetings with Town Staff. Ms. Dindinger asked are there places in the same watershed where trees can be planted or intended to be planted. Mrs. Reedy responded no and there is not anything designated in the watershed. Mr. Thomas also responded that there are funds in forest conservation account. Mr. Tettlebaum asked are there any plans for use of this pot of money from this fee and lieu. Mr. Thomas responded there are no plans. Ms. Dindinger asked would there be an option to put the submerged gravel wetlands where some existing parking spaces are on this property? Mr. Ewing said they need every space. One hundred thirty parking spaces are required. Mr. Tettlebaum asked what is fee-in-lieu. Mr. Ewing responded 30 cents per square foot. Mrs. Reedy responded it will be approximately \$1,300. Mr. Tettlebaum asked what it buys. It will buy trees. Ms. Dindinger asked will it buy more than we are taking down and how many trees will be taken down? Mrs. Reedy responded approximately 2,000 sq.ft.

Mr. Tettlebaum asked Engineers in the room what is the net impact on doing what they want to do versus leaving the trees there and is the watershed made no worse at the end of the day. What is the impact? Mr. Ewing responded what they are proposing is complying with the Town stormwater code. Ms. Dindinger asked what is more sufficient submerged gravel wetlands or a stand of mature trees in terms of nutrients and sediment reduction. Mrs. Reedy responded that the stormwater gives a little more quantity storage and the Town does have quantity requirements. Mr. Van Emburgh also stated if the trees were cleared and submerged gravel wetlands installed the submerged gravel wetland does have planting in them so there will be vegetation back. The submerged gravel wetlands will also allow control of flooding issues. Mr. Van Emburgh mentioned that if Planning Commission approves to move forward then Staff will make sure that planting meets minimum standards, unless it is something that Planning Commission would like to see again, that could be a recommendation; that staff can make sure it is enforced. Ms. Dindinger asked who is responsible for maintenance. Property owners will maintain. Ms. Dindinger would like to see native wetland tolerant plants in the submerged gravel wetland. Mr. Cochran asked if there are any inventory of existing trees to determine proximate age. Mr. Ewing responded Loblolly. Mr. Cochran asked how many trees will be removed. Mr. Tettlebaum asked how would picture look with trees removed. There are .05 acres of Forest Conservation area proposed for removal taken away and .12 acres of the Forest Conservation area to remain. Mr. Bone asked about parking joint maintenance agreement and how many staff work at building. Mr. James responded about 60. Mr. Bone asked how many parking spaces it would take to replace if we refuse easement area. Mrs. Reedy responded 12 parking spaces. Mr. Van Emburgh asked Mr. Ewing if he can reshape footprint and elongate SWM feature toward the road? Mr. Ewing responded the grades are pretty extreme near the road. Mr. Ewing said Lane will look at it. Mr. Ewing asked if they could establish a Forest Conservation easement for trees on the West side of the property. Mr. Dindinger asked if there is a minimum lot size for forest conservation area on the west side. Mr. Thomas stated this project was probably approved before forest conservation. Mr. Cochran asked how many trees are proposed to be removed. Mr. Ewing responded approximately 10. Mr. Cochran asked how many trees will be saved. A specific number is not

known at this time. Mr. Cochran would like to know an inventory of how many trees are planted in the Forest Conservation area. Ms. Dindinger was interested in concept plan for SWM under ESD section. Ms. Dindinger asked is there another place the submerged gravel wetland could go and not impact forest conservation. Mr. Ewing responded trees on the west side that are not in conservation would have to tie into existing stormwater feature that would make project LOD much larger.

Upon Motion from Mr. Cochran and second by Mr. Tettlebaum, the Commission voted 4-0 to approve the submission subject to staff approval of Stormwater Management without change to the Forest Conservation easement or the trees on the west side of site.

### **Discussions Items**

#### 2:00 PM MXW Zoning Bonus Provisions

Staff presented suggested final revisions to the proposed MXW provisions based on comments made at and following the Town Council's Public Hearing. Sharon Van Emburgh suggested one additional change to the language about Commercial or Mixed Use. Mr. Thomas explained the recommended changes. Mr. Thomas said the changes are to accomplish two goals: 1). We are suggesting that the amount of the fee is appropriate but we are cognizant of the impact it may have on the early economic development activity on Easton Point. We are thus recommending phasing in the fee of \$9.50 as proposed such that it would not be fully in effect until July 1, 2023. It would be 50% of that rate from date of adoption to the end of 2021 and 75% from January 1, 2022 through June 30, 2023. Mr. Bone asked what the developer has to accomplish in order to receive the reduced rate.

Much discussion ensued concerning the appropriate vesting level. Staff suggested we simply tie it to the "Agreement" that is required to be executed in order to utilize the bonus provisions, such that the date of the execution of that agreement would be the date that determines the percentage reduction (if any) of the fee.

Mr. Bone opened the floor to public comment. Mr. Al Silverstein (Member of Town Council) spoke. Mr. Silverstein asked if the Commission would consider taking out of the ordinance these numbers and instead simply refer to the Schedule of Fees where they would be detailed. Discussion ensued as to the merits of each approach.

Upon motion by Mr. Bone and second Ms. Dindinger, the Commission voted to recommend recommend the proposed revisions presented by staff. Approve 4-0

In the matter of whether the fees should remain in the Code, or reference a Schedule of Fees and be included therein, the Commission could not reach a consensus, with votes for each action failing to obtain a majority in favor.

### **Proposed Regulations of Towers and Small Cell Facilities**

#### 3:00 PM

Mrs. Van Emburgh stated that FCC issued an order. One proposed Ordinance deals with structures in the Right of Way. Another is a proposed amendment of the Zoning Ordinance as it is dealing with private property with small cells. Mrs. Van Emburgh shared the definition of small cell as an

unmanned equipment cabinet having a maximum total volume of 50 cubic feet. This came from another jurisdiction's ordinance. The FCC order defines small cells to 28 cubic feet. Mr. Cochran asked on private property does the contractor have the right of entry on private land subject to these restrictions. Mrs. Van Emburgh said the contractor does have to have an agreement with property owner. The contractor does have the right to put things in the public right of way.

Ms. Dindinger referred to Page 4 Item M of the document. Prior to introduction of any new service, the owner/operator shall provide the Town of Easton 10 calendar days notice in advance. Do we need to specify whether this is some kind of written notice or is there already a standard of notice? Mrs. Van Emburgh stated the notice would go to Town Planner or Town Engineer. Mrs. Van Emburgh stated that as it stands the Town Engineer is over the Planning and Zoning Department. Ms. Dindinger would like to specify who or how so no one would be confused? Mrs. Van Emburgh said she would add written notice to be sent to Town Engineer.

Mr. Bone asked does the FCC have any limitation on antenna size. Mrs. Van Emburgh responded 3 cubic feet in volume and no more than 28 cubic feet maximum size. Mrs. Van Emburgh said she would spell out the regulations requirements. Mr. Tettlebaum suggest to duplicate FCC language.

Mr. Cochran referred to Section 8 Page 3 concerning Towers. Mr. Cochran asked does the Town currently have language on cell towers in terms of controlling where and how? Mrs. Van Emburgh responded that on Page 2 through 6, the language that is not in bold is from our existing ordinance. Does this allow for several companies to park on one tower? Mrs. Van Emburgh responded yes. Does it also include possibility of using existing structures such as flood lights for towers? Mrs. Van Emburgh responded small cell can be attached to existing poles or street level.

Mr. Bone referred to Page 7 Paragraph E concerning talks about the equipment cabinet, having to be hidden by vegetative landscaping. Mr. Bone would like to make it native.

Mr. Cochran referred to Page 9 concerning cell facility in historic area. Will these structures be placed in back of property? Mrs. Van Emburgh responded in residential area yes. In Historic District applications would be subject to HDC review and meet standard of HDC for location.

Upon motion by Ms. Tettlebaum and second by Mr. Cochran, the Commission voted 4-0 to approve as discussed.

## **ADJOURNMENT**

---

There being no further business the meeting was adjourned at 3:24 p.m. by motion of Mr. Tettelbaum and second by Mr. Cochran.

The Commission will meet again at their next regular monthly meeting, which is scheduled for Thursday, April 18<sup>th</sup> at 1:00 PM.