

**Freetown Planning Board**  
Minutes of the Tuesday, April 17, 2018 Meeting  
Town Hall – Assonet, Mass.

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2018 APR 19 AM 11:15  
*JA Brown*

**Present:** Keven Desmarais, Debra Robbins, and Mark Rogers.

**Absent:** James Frates and Robert Jose.

**Call to order:** Mr. Desmarais called the meeting to order at 6:06 p.m.

**Public Hearing – Site Plan Review, 3 Janice Marie Way, East Freetown**

A motion was made by Mr. Rogers, seconded by Ms. Robbins, to waive the reading of the public hearing notice. The motion carried unanimously.

Nyles Zager was present from Zenith Consulting Engineers, LLC, to speak on behalf of the applicant, LLS Enterprises. Mr. Zager stated that the drainage impact would be minimal, that in fact this use of this property individually and when combined with the other uses throughout the subdivision would create less net drainage than what the subdivision had originally been designed to handle. Mr. Zager continued by stating that the two basins at the entrance to the site will tie in with existing drainage systems in the roadway for overflow; this would keep overflow off the travelled way and lessen or eliminate freezing and icing in the winter.

Mr. Desmarais asked what the typical hours of operation would be. Miah Nielsen, principal of LLS, stated they operate roughly from 7:00 a.m. to 4:00 p.m. They presently occupy another site in the same industrial park and would be moving to this site. Mr. Desmarais asked if it would be a reasonable condition to say no deliveries before 6:00 a.m. nor after 6:00 p.m., and Mr. Nielsen replied that that would work.

Mr. Desmarais asked about what was proposed for outdoor lighting. Mr. Nielsen stated that the bay doors must be lit by code. Other lighting would be planned for the site as appropriate. Mr. Desmarais stated the board would not want to see lighting that spilled off-site or into the sky. Mr. Zager stated that the lighting could be capped or aimed toward the ground.

Mr. Rogers asked what the square footage of the building would be. Mr. Zager replied 14,250 square feet. Mr. Rogers noted that if the square footage had been under 10,000 square feet, they wouldn't be here for a site plan review at all.

Mr. Desmarais asked about traffic. Mr. Nielsen stated they have few employees and only two or three deliveries per week. He estimated that in the new facility, he would hire a few additional employees, but there would still be minimal traffic. Mr. Rogers stated that it sounded like no-one would notice the difference between existing conditions at Mr. Nielsen's present location and future conditions at the new location. Mr. Nielsen predicted no significant increase in business activity; primarily, they would just be moving the entire existing business indoors rather than the current arrangement of partially indoors and partially outdoors.

Mr. Desmarais asked where the closest house was to the site. Mr. Zager estimated 80 to 100 feet, noting that it was a house on the old layout of Braley Road.

Mr. Desmarais again stressed that site lighting should be designed to not affect the neighbors, particularly the residential neighbors.

A motion was made by Mr. Rogers, seconded by Ms. Robbins, to close the public hearing. The motion carried unanimously.

A motion was made by Mr. Rogers, seconded by Ms. Robbins, to approve the plan with the three waivers requested:

1. Side setback landscape buffer (11.31.I.K.) on the side abutting Map 241, Lot 57, may be reduced from 40 feet down to 20 feet.
2. NAVD-88 vertical datum may be used instead of USGS datum. [Note: Mr. Zager stated NAVD-88 is now the industry standard and recommended USGS be replaced with NAVD-88 in the requirements.]
3. No impact statement need be submitted, as the property is located within an existing approved industrial subdivision and will have limited impact on traffic, the environment, community, parking, and noise.

The motion carried unanimously.

### **Continued Informal Discussion with Residents of Assonet Bay Shores**

Chris Cabral was present for the discussion as Craig Cabral was unavailable. Mr. Desmarais recapped the prior discussion on this subject. He noted research that had been done since that meeting relative to how some double-lots have come to be, whether by deed, by plan, by requirement of a building inspector or prior Planning Boards or bank, etc.

Mr. Desmarais noted questions that needed to be answered, such as what parameters would be used to determine whether a lot could be re-divided. Examples of requirements for the resulting lots were given as must be as they appear on the 1960 subdivision plan, must have 9,000 square feet of upland, must have 10,000 square feet of area, must have 100 feet of frontage, must not have been combined intentionally, must belong to original owners or original owners families, etc.

Brief discussion was held on whether banks may have required lots to be combined for mortgage or refinancing purposes. The counter-argument example was given that if a bank required two lots to be combined in, say, 1988, and there had been four subsequent owners, should an owner acquiring title in 2018 be able to benefit from something that was done three owners previously in 1988? The 1988 owner may have been able to claim a hardship, but the 2018 owner should not receive a windfall through happenstance.

Mr. Rogers asked about using the Zoning Board of Appeals as relief. The clerk stated that the instances where these cases had gone to the ZBA, the variances had been denied. Mr. Rogers asked about court appeals, and the clerk stated that the one that had been appealed to Superior Court had seen the denial upheld as the court found common ownership was not a hardship. Mr. Cabral noted that this case was on Gull Lane.

Consensus was to review various scenarios and attempt to create maps showing the possible results, and to aim toward moving on this for the fall town meeting if practical. No pursuit would be made for the annual town meeting as there are too many outstanding issues and questions to resolve.

Brief discussion was also held on limiting the sizes of the new houses that would result from any change, such as limiting square footage or numbers of bedrooms, etc. Chilmark's restrictions on the sizes of houses were noted as an example.

### **Receive Minutes / Receive Schedule of Bills Paid**

A motion was made by Ms. Robbins, seconded by Mr. Desmarais, to approve the minutes of April 3rd as submitted. The motion carried 2-0-1 with Mr. Rogers abstaining.

### **Any Other Business Properly before the Board**

Mr. Desmarais asked to have the clerk investigate what other towns use as penalties for violating conditions of special permits and site plans.

**Meeting Adjourned**

A motion was made by Mr. Rogers, seconded by Ms. Robbins, to adjourn at 6:55 p.m. The motion carried unanimously.

This is a True Record by me.

Attest: Michael T. McCue  
Michael T. McCue, Clerk pro tem

