

PRESENT: David Stringfellow, Chairman
Jennifer Lucachik, Secretary
David Bowen
Mary Ann Rood
Dr. Paul Ziarnowski

ABSENT: Mitchell Martin
Anthony Zeniuk

ALSO PRESENT: Jeff Genzel Councilman – Town Board Liaison
Michael Kobiolka Town Attorney
Thelma Faulring Secretary to the Boards and Committees
Richard Brox Planning Consultant
Adam Bojak Attorney for Moon Subdivision project

- Edward Mihalo 7968 Feddick Road
- Audrey Kasprzyk 7956 Feddick Road
- Dennis Franklin 5040 Mayer Road
- Patricia Franklin 5040 Mayer Road
- Bob Sandy 5055 Mayer Road
- Dorothy Sandy 5055 Mayer Road
- Gail Krause 5059 Mayer Road
- Eric Gawron 7601 Zimmerman Road
- Eileen Reinecke 5020 Mayer Road
- Colleen Stachewicz Mayer Road property (4970 Mt. Vernon Blvd., Hamburg)
- Mino Casali Mayer Road property (4970 Mt. Vernon Blvd., Hamburg)
- Laurie Telaak 5097 Mayer Road
- Rich Telaak 5097 Mayer Road
- Ken Telaak 7654 Feddick Road
- Lori Telaak 7654 Feddick Road
- Bob Crawford 5065 Mayer Road
- Pat Crawford 5065 Mayer Road
- Paul Reinecke 7737 Feddick Road
- Deb Reinecke 7737 Feddick Road
- Justin Bratek 8033 Feddick Road
- Katie Bratek 8033 Feddick Road
- Wendy Cicero 20 Pinetree Road, Lancaster
- Mike Cicero 20 Pinetree Drive, Lancaster
- David Congilosi 7935 Feddick Road
- Tamera Congilosi 7935 Feddick Road

*Please Note – Residents listed above are Town of Boston residents unless otherwise noted.

*Please Note: Due to its size - the survey of the property was not mailed to the surrounding property owners; it was on display at the Town Hall two weeks prior to the Public Hearing and was displayed the night of the Public Hearing. Chairman Stringfellow opened the meeting at 7:16 PM.

Secretary Lucachik read the Public Hearing notice and letter of intent from Attorney Andrew Hilton, representing John Moon in this matter

Secretary Lucachik noted that reviews from Town Engineer James Hannon and Planning Consultant Richard Brox have been received and filed and will not be read into the minutes due to the length of the reports.

Mr. Stringfellow: Were any petitions received?

Secretary Faulring: I haven't received any.

Mr. Stringfellow: There were no petitions submitted relating to the application for subdivision. At this time...

From the audience: what about petitions? *We didn't know about petitions

- Nobody here is in favor of this, so we don't need any petitions
- What is the process for petitions?

Please note: A letter was given to Secretary Faulring at 8:07 PM from Raymond Baranowski. Received and filed.

Mr. Stringfellow: Excuse me there is a point in this meeting that questions may be asked following an explanation by the applicant or his representative. Is there someone here to represent this matter? Yes, okay, you will hear from him in a few moments. I would like the Town Attorney to explain to everyone where we are in the process at this point and where we still have to go before the subdivision is finally approved or disapproved.

Town Attorney Kobiolka:

- Mr. Hilton has filed a preliminary plat on behalf of John Moon for a subdivision of 7 more lots
- This Board has 45 days to make a recommendation to approve, disapprove or modify it
- If it's approved the entire site will be on hold, signed by the applicant, filed in the Clerk's office and then the applicant moves to a final – it's called Plot approval
- These are the specifications which are necessary in the Town Code
- The Planning Board will send a copy of it to the Town Board for recommendations
- After that another Public Hearing is set and the Public will be invited back
- At that Public Hearing, the neighbors will be invited back and the Public Hearing the Planning Board will make a final plan to approve it, disapprove it or modifying it
- So at this time...

From the audience: Speak up we can't hear you back here?

Mr. Kobiolka: The public will be invited back for comments; there is a copy of plots behind you on the table and a copy was sent a copy to each one of the neighbors...

Secretary Faulring: Mr. Kobiolka, I did not send a copy of that because I don't have the capability...

Mr. Kobiolka: A small one was sent?

Secretary Faulring: I sent a vicinity map that was on the survey.

Mr. Kobiolka: At this time would there be any questions about the procedure?

Please note: at this time questions were being asked by residents from the audience – they did not come forward to the microphone or identify themselves – and so those comments/questions and the responses will not be recorded in the written minutes, at this point of the Public Hearing

This happened several times during the Public Hearing and again will not be included in these written minutes

Mr. Stringfellow: Is Mr. Moon or Mr. Hilton here.

Adam Bojack – Attorney representing John Moon

- The map back there represents not only what he is planning to parcel out but those that are already parceled out
- There are not going to be 7 new ones
- He has been selling lots all along, and now he has hit his threshold
- Because he has hit that threshold he has to file as a subdivision
- If he had sold one five years ago and one five years before that it wouldn't be a problem, but because he's planning on selling all these in succession the rule says that you have to file as a subdivision
- As for the large parcel he's willing to retain ownership of that and he has plans to do things with that himself, he's not going to build multiple buildings on that and we do have a deed restriction on the subdivision that he's going to sign that the large lot #7 that he will maintain ownership of will not be subdivided or portioned without formal subdivision approval by the Town of Boston

Comments from the audience.

Questions from the audience to Mr. Bojack.

Mr. Bojack: This is what I was saying before about the threshold. He has reached the threshold so anything above and beyond that he has to have Town formal approval. So you bought from him before and you built on them, but now that he's reached that threshold it changes the rules for the rest of the lots, 5 lots.

Conversations continued between the audience and Mr. Bojack.

Three residents came forward to review the survey with Mr. Brox.

Several comments about buying the property some time ago and, now not being able to get a Building Permit.

Comments about the Planning Board's knowledge of the subdivision process.

Several separate comments between the residents themselves.

Mr. Stringfellow: If there are no further questions for Mr. Moon's attorney; the townspeople are entitled to speak. Before we start that please raise your hands so we can get an idea of how many people want to speak tonight. Approximately 10. We will set a time limit of three minutes for each, I'll ask the Secretary to be the official timekeeper and please interrupt when the three minutes are over. Please refrain from repeating same issues from a previous speaker. Please come up to the microphone and give your name and address.

Tammy Stawisuck – 5068 Mayer Road

- It seems very confused as to who owns what, what's already built
- If this was to be a subdivision and now some people's permits are at stake, why wasn't the subdivision applied for prior to divvying all this up?
- It almost seems that they're doing it a back door way that seems suspicious
- I bought a house and was told that none of this would ever be developed, I was like the first sucker
- My question is 'why wasn't this presented as a subdivision like you are thinking these are all undeveloped lots, so he presents a subdivision, he gets approved, now he goes and sells them
- Instead he's sold different parts, people built, some think they're building are planning on building and now all of a sudden need this approval
- Why is it being done this way?
- You're saying it's a threshold, he got to a threshold because of the way he divvied up the land
- The threshold didn't sneak up on him, he knew how many acres he had and how many he was selling off so why didn't he apply for the subdivision prior to this so it wouldn't be so confusing?

Mr. Bojack: The best answer to that is he didn't know that there was a threshold that he triggered and also have to be filing a subdivision map. So he was selling off parcels just like anyone would. He just kept selling and all of a sudden he sold five and was told 'you can't sell anymore, you have to put this map together and do it officially according to Town Code, so that's what kicked this into gear.

Question from audience.

Mr. Bojack: He was notified by the Town Board that he was selling these parcels together and that it was in in a certain timeframe and said that he had to go through this process and that's how all this got started.

Question from audience.

Comment from audience.

Several commenting from audience.

Mr. Bojack: The purpose of this meeting is to get this approved so that you can build, get this done and over with.

Laughing, comments from audience.

Mr. Stringfellow: Please step up to the microphone and give your name and address.

I'm not giving my name and address but...

Mr. Stringfellow: Sir you give your name and address or you don't speak.

Eric Gawron – S. Feddick Road, Zimmerman Road

- (Addressing the audience) So everybody here, I'm assuming would be against a road going in with more houses, can we agree on that?

Mr. Kobiolka: This is a Public Hearing, please address your comments to the Board, you can talk to them later

Eric Gawron

- I'm assuming everybody back here (gesturing toward the audience) would be okay with him opening that property to just that nineteen acres where one house could be built on and that no other subdivisions could go in, am I right?

Several comments from the audience.

- So I guess I'm getting an answer from them for you folks that if there was a road going in I it would be a unanimous vote 'no'
- If it was just him splitting off that nineteen acres to put a single house in there which I think his attorney had referred to, then I think the majority of the people would be okay with that.

- Just trying to clarify, because when you folks are speaking it's all legal terms and this and that and I think the nature of it comes down to road, yes – road, no. I think that is the main question here people want to know road or no road, and that was answered before.

Mr. Kobiolka: Are you saying that you would have no objection to one house going in?

Mr. Gawron: I don't have a problem with that. One house on that 19 acres is for...

Others commenting from the audience.

Mr. Bojack: There is a deed restriction that he will be signing for that large parcel, that 18 acres will have a deed restriction that he cannot make it smaller than that without Town Board approval.

Many loud comments from the audience.

Mr. Brox: In my review I recommended that the large parcel cannot be further divided, period.

Bob Sandy – 5055 Mayer Road

- I agree with this young man back here, that he wouldn't sell this land straight back to square off those lots
- Reason for that is the May farm is become under development and you would see him sell that land and the May farm get developed into back there
- I want to thank David Stringfellow for his...he was up there pretty late last night walking and...
- It's quite wet up there on Mayer Road we have springs and I'm concerned about the extra water
- Safety concerns the traffic on Feddick and Mayer – they're speeding on those roads ever since we lost our police department here, it's not safe getting out of your driveway and we don't need any more traffic
- Thank you for your time

Tamera Congliosi – 7935 Feddick Road

- At the beginning of the meeting you spoke about a petition, that there had been no petitions submitted
- There were no submitted petitions because we really didn't know what this was going to entail
- If we want to go about submitting a petition what would that process be?

Mr. Kobiolka: It's just a process where the neighbors get together and say you're in favor of something or not in favor of something. And when a petition is most effective is when everybody couldn't come. When everybody can come then you have the opportunity to express yourself here.

Ms. Congliosi: Is there a deadline for that?

Mr. Kobiolka: This Board has 45 days to decide to approve the plots or not.

Colleen Stachewicz

- I bought the vacant lot on Mayer, lot 2
- I did not buy it from Mr. Moon, I bought it from Sandy Gawron
- So is this still, am I still beholding to Mr. Moon's subdivision, I did not buy it from him

Planning Board member: Yeah.

Ms. Stachewicz: How did the Gawron's, as part of the deed they gave to me they gave me sewer permit which was given to them, the Town of Boston engineers did a sewer design. How did they get a sewer if they didn't know if I was going to build a house or septic. How do you get a septic design from the Town of Boston if the Town of Boston wasn't aware that I bought this land to build a house?

Mr. Kobiolka: Was this a long time ago?

Ms. Stachewicz: No this was last summer when they got this permit and then they decided to sell this property and I purchased it so I also have the active sewer permit. Now what would I do with it if I wasn't going to build a house?

Mr. Kobiolka: Are you sure that didn't come from the County, not the Town? County.

Ms. Stachewicz: County? So you guys are not aware that...

Mr. Kobiolka: No that paper doesn't come across our desk at all.

Ms. Stachewicz: And you guys were not aware that these lots were being sold?

Mr. Kobiolka: We found out maybe 8 to 10 weeks afterwards. Until we get the paperwork from the County that shows these lots are being parceled off along with the owners names and stuff like that.

Ms. Stachewicz: So I bought lot #2 I'm going to be penalized because he sold lot #6?

Mr. Kobiolka: I don't think you're going to be penalized. If the subdivision approval goes through then...

Comments from audience.

Pat Crawford – 5065 Mayer

- Regarding the large lot again - has anything been done by the DEC about the water, the wetlands, with the springs that come up there and the drainage that goes onto Feddick Road?
- Is that something that should be done for something this large?

Mr. Stringfellow: The subdivision before it is approved must go through the SEQR, which is essentially environmental impact and that should be addressed at that time; it has not been addressed to the best of my knowledge, but it must be addressed before the subdivision can be approved.

Ms. Crawford: As Bob was mentioning the other subdivision that might go in could attach to this and at that time this may be approved to open up for lots; how strong is the restriction if you put it on today...

Mr. Kobiolka: Strong. You can't..

Mr. Brox: The deed restriction runs with the parcel so that 18 acre parcel would have the deed restriction filed with the County Clerk and here in the Town of Boston that says this parcel can no longer be subdivided any further. It stays 18 acres in perpetuity.

Mr. Bojack: Portion not to be subdivided without the approval of the Town of Boston.

Mr. Kobiolka: That was not part of the discussion we had: 'it cannot be further subdivided.'

Mr. Stringfellow: I believe the Planning Board has the authority to require them to modify that deed restriction if the Board feels that is the proper thing to do.

Katie Bratek – 8033 Feddick

- Regarding the petition – if we have over 20% or 30% to require a simple majority on the Planning Board

Mr. Kobiolka: That only applies to rezoning with the Town Board.

Ms. Bratek: Okay so it's not going to be rezoned?

Mr. Kobiolka: No, Zoning is not changed at all.

Ms. Bratek: But if they have to modify it later would that apply, if they rezone it would that apply, re-subdivide it would that apply?

Mr. Brox: Not if we get the deed restriction that we requested which says 'no further subdivision', period.

Ms. Bratek: Okay and it looks that the two remaining parcels that would be allowed by this would be emptying onto Feddick not onto Mayer. Is that correct because there's two more lots #6 and #7.

From the audience: Lot 7.

Ms. Bratek. Yes, Lot 6 is sold so that's one more driveway, and then lot 7 is the 18 acres and that's what he's applying for at this time.

Comments from the audience.

Mr. Stringfellow to audience member: Excuse me, under Parliamentary Procedure you are not allowed to speak a second time until everyone has one chance to speak. Is there anyone else that would like to speak at this time?

Mr. Stringfellow: You're up.

Eric Gawron: It sounded as though as everyone was speaking that the majority was okay with the subdivision, being as there is no road going in; and with the folks that were kind of hoping for building permits and everything is there anything we can do to speed this along to get the approval of it so we can get our building permits.

Mr. Kobiolka: It depends on what the Board wants to do. They have some options they have 45 days to make a decision or they can make a decision tonight; and if they make decision tonight that they approve the initial plots then it'll go to the Town Board we would have to sign a plat that would filed in the Town Clerk's office then we would have to move to final approval, determine that it is to code and then we have to go through SEQR to be sure that it doesn't upset the environment and the other considerations. So we could set this down for a final approval the end of September, it's possible. Would that give you time to publish a notice in the paper for the second meeting in September?

Secretary Faulring: The 24th, yes that would give me time.

Mr. Gawron: I have a driveway in and we're applying for the mortgage next week, so we're there. This is like a huge shock to me. You have to understand where I'm coming from. I'm upset, and it has no bearing on anything I did so I need to know what's going on here so I can make my plans, you can't just leave it out there and say maybe in 40 days. I need to know, these folks need to know as well.

Dr. Ziarnowski: During our discussions in the Planning Board room one of our concerns was your two lots. Your two lots actually is comprised of 11 acres.

Mr. Gawron: Which I won't divide off.

Dr. Ziarnowski: But we don't know that and neither do your neighbors. So theoretically we initially applied for a deed restriction on your lot, because you could actually sell off two parcels. So for all you neighbors that are sitting there he has 11 acres that he could possibly divide into two other parcels.

Mr. Gawron: I have requested them to be put together.

Dr. Ziarnowski: It doesn't make any difference you still have 11 acres you could eventually divide off more so there's no deed restriction on your property. If I was a neighbor I wouldn't be worried about the deed restriction on the internal piece of property I would be worried about your piece of property that there could be two more houses on your piece of property depending on where you located your house.

Discussion continued Between Dr. Ziarnowski and Mr. Gawron regarding the Gawron 11 acre parcel.

Mrs. Lucachik: In your respect nothing will change with what you're doing. It's literally we're making sure that we receive the Environmental Impact Statement that says it's going to be okay, your land or whoever puts their house or septic system should not impact the others, that's literally our concern.

Mr. Gawron: I'm just worried about being able to do what I need to do on my property. I can understand all the rules but there's no clarification on anything.

Mrs. Lucachik: I just said that you should not be impacted with what your plans are.

Mrs. Lucachik tried explaining what the Planning Board was looking at and how to best provide the least impact for all concerned. Mrs. Lucachik was constantly being interrupted by Mr. Gawron.

Mr. Stringfellow: Basically sir, Mr. Moon was entitled to sell up to four lots, if he had not sold any more than four, building permits would have been issued on all of those four when the owners came in for them. He did sell more than four or is planning to sell more than four and I am not sure exactly where some of those stand. That puts him at the point where these lots must be approved as a subdivision. He has chosen to apply for subdivision approval.

Comments from the audience.

Mr. Brox asked for a show of hands of how many would be in favor of the subdivision as far as there are no roads going in as drawn on this sheet of paper.

Several comments and questions were being thrown out from the audience.

Mr. Gawron: You're asking for a show of hands assuming no road, assuming the deed restriction would be changed so never being able to be changed...

Discussion followed – several speaking at one time.

Bob Sandy – 5055 Mayer: with everyone here words are getting twisted around. Why can't we vote on "do we want a subdivision or do we want to leave it just the way it is and let John have his 5"...this is just multiplying

Mr. Stringfellow: Sir, leaving it just the way it is would mean that some people who have bought lots and paid for them cannot build on them, that's the situation that we are in now.

More comments were shouted from the audience. Loud discussion between the audience members.

Mr. Stringfellow: If there is no one else to speak it's time to close the Public Hearing.

Paul Reinecke 7737 Feddick Road: Will we be notified about that deed restriction on that 17 acres?

Mr. Kobiolka: You will be notified if there is another hearing, we'll know about the deed restriction by then. And then it will be decided at that hearing.

Mr. Reinecke: Mr. Moon has told a lot of people a lot different stories. I would have to have that in writing that it is locked down - that 18 acres. I know he wants to split it, guaranteed, that 18 acres or he wants to sell to that company that owns the May farm.

Mr. Bojack: It will be signed and recorded along with this.

Many loud comments from the audience.

Mr. Stringfellow: Our secretary is very limited as to what she can copy and send out. The subdivision map is much too large to do that and I believe she sent a reduced copy of that, am I correct Thelma.

Secretary Faulring: I sent out the vicinity map that was on the survey, the tax map and all the surrounding neighbors were notified. The survey was available at the Town Hall.

Mr. Stringfellow: Is there anyone else that wishes to speak? No. Then at this time we will close the Public Hearing. The Board will discuss this at the Planning Board meeting following this meeting. We will discuss at that Planning Board meeting whether we feel we are at a point to approve or not approve the preliminary and let them move on to final which will require another Public Hearing and will have to be after the environmental impact has been evaluated. The Public Hearing meeting is closed (8:05 PM).

Respectfully submitted,

Jennifer Lucachik
Secretary