



# TOWN OF SWAMPSCOTT

## PLANNING BOARD

ELIHU THOMSON ADMINISTRATION BUILDING  
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

**MEMBERS**  
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GEORGE POTTS, VICE CHAIR  
MICHAEL PROSCIA  
BILL QUINN  
DAVID ZUCKER

**STAFF**  
MARZIE GALAZKA, DIR. OF COMM. DEV.  
MOLLY O'CONNELL, SENIOR PLANNER

# DECEMBER 9, 2019 MEETING MINUTES

**Time:** 7:05 p.m. - end  
**Location:** Swampscott High School, Room B129, 200 Essex Street  
**Members Present:** A. Ippolito, G. Potts, B. Quinn, M. Proscia, D. Zucker  
**Members Absent:** None  
**Others Present:** Jill Mann (attorney), Rich Williams (engineer), Dan Mills (traffic consultant), Reggie Pagan (resident), James O'Brien (resident), Caroline Mailhot (Resident), Marilyn Perry (Resident), Laurie Videtta (Resident), Sergey Sokoe (Resident), Molly O'Connell (Senior Planner)

Chairwoman of the Board, A. Ippolito called the meeting to order at 7:05 P.M.

MOTION: G. Potts to approve meeting minutes from November 2019. Seconded by B. Quinn. Approved 4-0-1 (D. Zucker abstaining).

## CONTINUED - PUBLIC HEARING: DEFINITIVE SUBDIVISION PLAN (19SUB3), ARCHER STREET, 54 FOSTER ROAD, CUSHING AVENUE

Chair Ippolito gave a brief review of what happened at the first hearing on this item, and reminded everyone that the subdivision process is specifically looking at the creation of a new access road, although there are additional items that will subsequently go through the site plan review process. The Planning Board has a specific checklist of issues to consider when looking at the creation of a new road.

Jill Mann, applicant's attorney, Rich Williams, engineer, and Dan Mills, transportation engineer, were present. Ms. Mann reviewed what was previously discussed – Cushing Avenue is a paper street which they are proposing to extend to connect to Foster Road, requiring the subdivision application. The initial hearing was continued as there were questions about the safety of the proposed road and the waivers from the regulations requested by the applicant. They have submitted a plan pursuant to the state regulations and to the Town's subdivision controls. The plan will also conform to Board of Health regulations – they will connect to potable water; and the property will conform to zoning regulations when it is built out. Currently, the property does have legal access off of Archer Street. Their traffic engineer has certified that visual distance is adequate for cars entering and exiting the proposed roadway. There are some existing visual impediments, such as a blind driveway across Foster, that would be handled by improvements such as clearing vegetation. Traffic accidents in this area are a direct result of snowy conditions. There have been five accidents in five years; 3 of those where a result of a snow storm, one because of a parked car, and one because of sun blindness.

Ms. Mann noted that Foster Road carries approximately 1700 trips per day, and in 2018 there were no accidents, and therefore it is not a street that is burdened by horrific traffic conditions. The subdivision rules ask applicants to provide a

safe intersection and street – the plan has a flat incline and a 3% grade, which is essentially no slope. The applicant met with department heads to discuss mitigation measures. DPW approved of parking signs but not speed signs; they would work with DPW to put up whatever signs they see fit. Ultimately, the geometry of Foster Road will not be impacted by the proposed plan and they are not increasing negative impacts. The applicant has also demonstrated that Fire equipment could traverse both Cushing Avenue and the proposed secondary emergency access through Vaughn Place.

(Ms. Mann) The stormwater regulations require that projects do not increase any velocity off the property, and they are proposing a large infiltration basin to handle the runoff from the project, including the new roadway. The ongoing Operation and Maintenance Plan requires monitoring of the system. The waivers requested for the width of right-of-way, pavement, and distance to curb are all due to the design of the road itself. The waiver from the turnaround is included – the applicant has provided a hammerhead option with Cushing Avenue; however, the interior of the complex has a complete turnaround to meet the subdivision requirements.

(Ms. Mann) The waiver from width is requested to accommodate all other attributes of the road. A 44 foot right of way is required when there are two sidewalks, grass curbs, etc. In this area, the Town does not put sidewalks on both sides of the street. Many of the roads in this neighborhood were built before subdivision control and the by-law says you should match configuration and alignment of what exists. There is no impact on safety with these waivers. We can make the pavement 28 feet but did not think that was necessary as it is a minor street connection. Current proposal is 24 feet of paved road which is more than adequate for the traffic proposed as it is not a through way.

(Ms. Mann) There was a question of a sidewalk connecting out of the development to Foster. Applicant would be willing to put in a crosswalk or extend the sidewalk and would work with DPW if the Board wanted to do that. The Board members asked about a 30 foot turning radius as opposed to the current plan; 30 feet is more appropriate when you have a turn like an exit ramp, but in this case cars will need to stop before turning. The waivers are ultimately relative to the width and radius of the road and cul de sac. Finally, snow storage has been shown on the plan. The association would be responsible for ensuring that the path up to the secondary emergency access at Vaughn Place would be kept clear.

Chair Ippolito opened to the Board members for questions.

Board members discussed the updated comments from the Fire Department, noting that ultimately this project does come down to safety as they are trying to balance the applicant's statements with staff concerns. A. Ippolito asked why the secondary emergency access from Cushing becomes a gravel path; Ms. Mann noted that they could pave it, but it would increase runoff necessarily. The gravel is able to be plowed and will be graded.

G. Potts noted the proposed road's proximity to other residences and asked why the applicant is pursuing this avenue on Foster and not their legal access on Archer Street. Ms. Mann noted that when the original project was in front of the Zoning Board in 2012, there were concerns about using Archer which is why they switched to Vaughn Place. However, it was determined subsequently that it is not a public way. While Archer Street is also a private way, this property was a part of the subdivision when the road was created so the applicant does have a right to use it for access.

Board members discussed the proposed turn from Foster onto Cushing and the safety aspects. Some members have concerns that cars won't come to a complete stop before turning.

Chair Ippolito noted that applicant had originally needed a variance for frontage to use Vaughn Place, and the approved plans show Archer Street marked as a mitigation area. Ms. Mann stated it was a Mitigation Payment Area, like a payment in lieu, that would go elsewhere. The applicant was still asked not to use Archer Street.

Chair Ippolito asked about the traffic study and how the numbers were calculated. Mr. Mills said they used the ITP's standards, which are the most common, for 55+ developments. A. Ippolito expressed her concerns that the numbers might assume retirees, however many folks that age are now working longer. Mr. Williams and Mr. Mills noted that overall, there would be less trips than a regular development because there are less school-related trips and there is a higher likelihood of retirees.

M. Proscia asked how many trips there would be for a regular residential development. Mr. Mills stated about 220 trips.

A. Ippolito asked about the site distance being affected by neighbors putting up fences. Ms. Mann noted that the bylaw says you cannot install impediments to site lines and safety.

A. Ippolito read staff comments, which still expressed concerns about public safety with the proposed project. D. Zucker noted that those comments are the source of his concerns. Mr. Mills said they have recommended some solutions for Foster Road, such as the clearing of vegetation, to help with the existing conditions on Foster Road. A. Ippolito still has concerns about cars going downhill on Foster to then take a left onto Cushing Avenue.

D. Zucker stated the number of trips is irrelevant, either the turn is safe or it is not safe. B. Quinn disagreed, noting that while the variables stay the same the occurrences go up. The turn could make this even more unsafe if you have a stopped car waiting to turn and another car trying to go around it.

D. Zucker asked what minimum visibility is needed. Mr. Mills says 165 feet for left turn on the straightaway. If you are stopped, you can see approximately 240 feet in current conditions. Board members asked whether or not this applies when cars do not come to a stop to turn; Mr. Mills said that is not the criteria they measure.

Board members discussed the nature of the proposed left turn off of Foster, and expressed concerns about speeding cars and the physical characteristics of Foster Road that are challenging to this application. Ms. Mann stated that if this area was seriously unsafe there would be more accidents with folks turning into their driveways, but there is not.

Board members discussed whether or not the plans and traffic study satisfy their concerns, and whether or not other mitigation measures would be possible.

Mr. Williams addressed the grades of the existing and proposed roadways. Foster Road is at approximately a 12% grade, however Cushing Avenue is at 3%.

D. Zucker asked if a stop sign on Foster had been considered. Ms. Mann said DPW did not approve. There is not enough traffic to justify it/meet the criteria for a stop sign and would potentially create other issues.

M. Proscia stated he would encourage the applicant to look into a sidewalk extension from Cushing to Foster, as many people in this area walk. Ms. Mann noted they are willing, but it would potentially disturb people's front yards that are currently in the right-of-way. She said they could also put a crosswalk in, if folks wanted that.

D. Zucker asked the applicant why they didn't want to use Archer Street. Ms. Mann stated that in their opinion, this proposal provides safe access. They did not propose Archer because they were asked by the Town not to.

Laurie Videtta, 31 Eureka Avenue, lives at the corner of Eureka and Archer Street. When staff came out to visit the other end of the site, the Fire Chief hit her wall with his truck. The turn off Eureka onto Archer is very tight. There was a fire on March 6<sup>th</sup> and the fire trucks could not get around the corner and water flooded her basement. That area can't be opened up; you'll have to take down people's walls to do it. It would maybe be different if it was single family houses, but over 55 does not mean there will be less cars. The area can't support so many units.

James O'Brien, 5 Archer Street, stated there is no place to park and not enough rooms for cars to get through on Eureka and Archer Street. There are also serious flooding issues, and there will be major issues with snow. Eureka and Jessie streets are only 18-19 feet wide in places.

D. Zucker reminded commenters that, if the applicant's assertion is true, they have the legal right to use Archer and does not need permission from the Planning Board.

Caroline Mailhot, 2 Archer Street, expressed concerns about runoff and stormwater management in the area is insufficient and a regular issue. Archer Street will be further impacted with this project. Town will need to do major remediation.

Marilyn Perry, 6 MacArthur Circle, stated she has a video from December 2<sup>nd</sup> which shows a car not being able to make it up the hill on Foster due to ice and snow. Then a Fire truck went by at a snail's pace. This is all about safety. In reference to the Vaughn Place emergency access, that is where the snow is piled. Ms. Mann responded that they would remove that snow and store it on their property.

Angelo Varvounis, 23 Vaughn Place, has concerns about the traffic study as over 55 does not mean there will not be families present, and there could be many more cars than what is predicted.

Caroline Mailhot, stated that although this project is about Foster, the Archer Street neighbors need to understand that this outcome will impact them and they should have a say. The safety concerns that are being outlined for Cushing are at an extreme on Archer Street. More information is needed and Archer street residents need to understand the impact of this decision and made clear in notices to property owners.

Reggie Pagan, 60 Foster Road, states Foster is very dangerous for a fire truck and the numbers given are not reality. She referenced previous accidents that she had seen from her house. The truck will slide down the hill, as many cars do on this road. The infrastructure of Swampscott is not made for these trucks. She wants to know how the Town approved the original project, as she knows developers who wanted to purchase the property but didn't knowing there was bad access.

D. Zucker asked how the footprint of the proposed road compares to the existing driveway. Mr. Williams replied that Cushing is about 8 feet wider, so it would be easier for a fire truck to access the new road than the existing driveway.

A Foster Road resident expressed concerns about cars exiting the subdivision by taking a right turn; if the road is icy, he does not think this turn will be possible for cars without four-wheel drive. He asked what roads the traffic study included. Mr. Mills responded that the study included Burpee Road up to Essex Street and portions of Foster Road. The resident – noted other streets, like Jessie and Roy – would still be affected and weren't included in the study.

Chair Ippolito stated that the most important role of the Planning Board is ensuring safety of the Town and its residents when looking at these decisions. She looked to other Board members to get an assessment on where everyone stands and the options.

D. Zucker stated he is trying to be cognizant of the Board's duties, which are much more narrow than the conversation they've been having. We are looking at the access point and whether or not it is a safe and suitable access and we need to determine how to decide that. He does not know any other way other than objective data. He thinks there is enough information to vote, but would be amenable to looking for further clarification.

B. Quinn states he is struggling with the discrepancy between the Petitioner's information and Town comments. He was uncomfortable with the traffic during the site visit, however he appreciates the applicant's willingness to answer their questions.

A. Ippolito agrees with B. Quinn – the data provided has given them a baseline. However, this project is in a very old and densely populated area and will create a situation that is going to permanent affect the way people live and safety aspects, and she is not yet comfortable with that. On the other hand, she is understanding that the applicant has property rights as well. This is a very unique circumstance. The Town has really developed around this property and most of that development predates current zoning regulations, which puts us in a predicament. She feels as if we are choosing between two bad choices.

Board members debated options: voting on the plan or going back to get further clarification from staff. G. Potts noted that if not this access, than the Petitioner will use Archer Street. Both access points are problematic and will also affect the site plan. A. Ippolito reminded everyone that the site plan will need to be amended by the Zoning Board, however the access needs to be granted in order to move forward to that process. Board members need to focus on the current request and whether or not that is safe.

G. Potts thinks the current conditions are unsafe and taking a right out of the development will be an issue, however, it will be infrequently traveled. D. Zucker notes that Foster Road has safety issues, but the turn is not going to be any less safe than the turn that exists into the house that is there now.

M. Proscia agrees with G. Potts; it is hard to view the request in a vacuum and not think about the implications for Archer Street.

Board members restated earlier comments and reviewed data points provided by the traffic study. There is an undesirable condition and so the concern is that by introducing more opportunities for incidents to occur that you're increasing safety concerns. Ms. Mann reiterated that incidents happen only during storms/weather events. There are 600,000 trips per year on Foster and there have been 3 incidents in recent years, which is not a statistical impact.

Board members debated the safety improvements proposed, such as vegetation clearing and pavement markings.

D. Zucker asked how wide the right-of-way is on Foster. Mr. Williams said 40 feet, and 24 feet paved, although varies as the road turns.

Sergey Sokoe, 82 Foster Road, notes that it is impossible to clear the vegetation across the street b/c of the ground elevation and retaining wall. Mr. Mills stated they are aware of the wall, but the clearing would still provide improvements.

Board members asked where the sewer connection would be. The project would be connected to the lines along Foster Road and new utility will be connected into the development.

A. Ippolito stated that she still has concerns about the safety aspects of the plan, and is not convinced that dangers are mitigated.

D. Zucker disagrees; he thinks the applicant has done enough to prove that the plan does not make it more unsafe than the current condition.

Board members debated whether the project should go to the traffic study advisory committee and whether additional comments from DPW, Fire and Police are needed. D. Zucker stated there is a conflict between what they want public

safety to say and what they are saying. There is a need for traffic experts to comment. The ultimate question is – does the creation of the intersection create unsafe conditions over and above any additional mitigation?

Ultimately, the Board decided the question should be taken up by the Traffic Advisory Committee

MOTION: D. Zucker to continue the item to the January 13, 2020, hearing and to send the project and Planning Board question to the Traffic Study Advisory Committee. Seconded by G. Potts; unanimously approved.

## OTHER BUSINESS

Ms. O’Connell gave a brief update on the discussion about retail marijuana establishments in Swampscott and information previously presented to the Select Board. She noted that a potential retail marijuana establishment trying to locate in Vinnin Square will be having their state-required community outreach meeting the following evening.

MOTION: by A. Ippolito to adjourn the meeting, seconded by Bill Quinn, unanimously approved.

Meeting ended at 10:31 p.m.

Molly O’Connell  
Senior Planner