

Rails to Trails Planning Board and Planning Chair Report of 1 March, 2019

As referred, there was discussion of the Rails to Trails situation at the Planning Board's regular Work Session of 14 February, 2019. There was general discussion of the Town's history of viewing trails as a recreational resource, the adverse concerns of a neighborhood group and the support and advocacy of another group of local residents.

The conclusion at that time, based on attorney input, was that the Town has no standing to regulate or set guidelines for the project. Counsel has advised that, while ownership remains with the railroad, use has been leased to ECRT and the route is a federal right of way thereby under the jurisdiction and control of a superior government.

Subsequent to that discussion, representatives of the opposition citizens group ("Neighborhood Preservationists") were referred by the ZBA to discuss their concerns with the Planning Board chair. Given the need to assure that official town channels are always accessible to concerned citizens, a meeting took place several days later.

During an extended session on 26 February, two representatives of the opposition group presented their concerns which are summarized and discussed below. The status of federal right of way pre-empting town standing was raised. The opposition group offered material from the "rails-to-trails conservancy" and a staff member of the Surface Transportation Board that they posit gives the town the authority to approve and/or regulate. The standing of the material and the author cannot be confirmed and it has been footnoted as not presenting legal advice that can be acted upon. After some further general discussion, the meeting was adjourned.

Overview of "Neighborhood Preservationists" primary concerns

1. Privacy - Observation from and people crossing private yards for access to and from the trail
2. Security - Potential for the trail being a route for criminal access
3. Property Values - Potential for reduced values of immediately contiguous properties.
4. Design and Construction - Surfacing, drainage, screening, access points, parking, etc.
5. Use - Pedestrian, vehicles if permitted
6. Costs and Liability - Would there be costs to or liability incurred by adjacent homeowners?
7. Quality of Life - Relative comparison of not easily quantifiable costs and benefits

Suggestions

Based on the Planning Board review, the subsequent discussion with the "Neighborhood Preservationists" and consultation with town legal and other staff, the following are suggested:

1. Jurisdictional matters must be clarified to the satisfaction of the Town Board.
2. Should the Town have any option or authority to comment on or review the project, a proposed plan for the trail from the ECRT will be a clear requisite to begin any considerations.
3. Having two concerned citizens groups, with ostensibly opposing purposes, seeking some form of support from the town, it would be appropriate for the Town Board to do its best to ascertain the view of the full citizenry that it represents before it takes any position on behalf of the town at large.

4. Government intervention in a dispute should not ideally be the starting point in resolving a disagreement between private parties. As it appears that both advocates and opponents are seeking to engage the town as an ally, it would not be improper to encourage both to negotiate and each review the other's points and concerns to see if some or all of the points of contention can be resolved.

Hal Fabinsky,

2019 Planning Board Chair