

HOPKINTON PLANNING BOARD

Monday, January 27, 2003 7:30 PM

MINUTES

PRESENT: John H. Coolidge, Chairman, Sandy K. Altamura, Vice Chairman, Mark Abate,
Brian Herr, Tina Rose, Claire Wright

.....Elaine C. Lazarus, Town Planner

1. 81-P Plan – 29 School St. - Dooley

Donald Nash, 222 Winter St., described the plan to divide the property at 29 School St. and convey a parcel to him. He noted that the existing house would be purchased by Kevin Dooley. He stated that the land with the barn will be used for his daughter's horses, and it is not a building lot. The Board voted unanimously to endorse the plan as not requiring approval under the subdivision control law.

2. 45 Pleasant St. – Tedstone

Brendan Tedstone, 45 Pleasant St., showed the Board a preliminary plan of what he would like to do with the land owned by his family. He stated that his brother is renting the house from their mother, and they want to demolish that structure and create 2 lots, one with a house for each of them. Ms. Wright asked how old the existing house is, and Mr. Tedstone stated it is more than 75 years old. Ms. Wright referred him to the Historic Preservation (demolition-delay) bylaw, noting that the Historical Commission would review the demolition application before it could be issued, and it could result in a delay. Mr. Tedstone noted the other possibility is to keep the house and put in a paper street beside it. He asked the Board for feedback. He stated the existing house is not in good structural shape and it needs a lot of work.

Mr. Coolidge stated that family subdivisions approved in the past were for families to do exactly what Mr. Tedstone is talking about. He stated that the Board would have to waive road construction standards. He noted that the Board has frowned on these types of subdivisions over the last few years. He stated he would be concerned that the lots shown don't meet the lot frontage depth requirement. Ms. Altamura asked Mr. Tedstone if he had spoken to abutters about the proposal, and he replied no. She asked if they could have a house built behind them, and Mr. Tedstone replied he would leave a buffer there, noting there is 1.8 acres. Ms. Altamura asked if he had considered demolishing the existing house and just building one new house.

Ms. Wright noted that the Board had worked with the Historical Commission last year to create the new bylaw. She stated she doesn't want to encourage teardowns of historic houses in older neighborhoods to allow newer homes to be built, and she would be opposed to that. She stated she would feel more comfortable if the existing house was rehabilitated, noting that downtown is an area where all of the homes are older. She stated the house has potential for rehabilitation. Mr. Tedstone stated that the house was not kept in good repair. He added that one of his

neighbors wanted to buy some of their land, and they told them what they wanted to do there. Ms. Altamura stated she wants to hear what the abutters think.

Ms. Rose stated she is not a big fan of family subdivisions. Mr. Coolidge suggested that Mr. Tedstone talk to the neighbors. He noted that they would need to hire an engineer to prepare the plan. Mr. Herr stated he would need to hear more about the proposal before he can make a judgment.

3. Public Hearing – Earth Removal Permit – 66 Fruit St.

Jim Pyne, Pyne Sand & Stone, appeared before the Board. Mr. Coolidge stated that Mr. Pyne is his neighbor on Pond St., and that he is also a member of the Fruit Street Development Committee which is working on the development of the property for municipal uses.

Mr. Pyne described the area proposed for earth removal, stating that sandy material will be removed. Mr. Coolidge asked how large the area is, and Mr. Pyne replied it is about 4 acres. He stated the area has been used for bonfires and materials storage over the years, and there are trees near the Garner Bros. property line, some of which would remain.

Mr. Coolidge referred to the letter received from Fay, Spofford & Thorndike, the Board's consulting engineer. He reviewed the list of comments and recommendations made, and asked if they can be addressed. Mr. Pyne stated this is part of a large disturbed area and there is nothing green on it. He stated surface water flows from west to east, and it will remain the same. He stated he would retain the ridge adjacent to the Garner property, and the proposal is a continuation of what has occurred on the site for 30 years. Mr. Herr asked when the work would be done. Mr. Pyne stated that it will be done one year after the permit is issued, but he wants a two year permit. He stated they were struggling during negotiations to get to a number that the Selectmen were comfortable with, and it was thought that this area would need to be leveled for a school anyway.

Mr. Herr asked how the proposed earth removal relates to the proposed uses of land on the property.

Ron Clark, Board of Selectmen, stated that the location of uses is not determined yet, and they have hired a firm to work with the Town to prepare a master plan.

Mr. Herr asked what the area will look like if nothing is built there for 5 years, noting that the school and other municipal projects could be delayed. Mr. Coolidge noted that the area would be loamed and planted in accordance with the earth removal bylaw, similar to other areas of the property.

Ms. Rose asked about FST's comment that the location of the Water Resources Protection Overlay District be shown on the plan. Mr. Pyne stated that the entire site is within the District.

David Goldman, 20 Fruit St., asked what the terms and conditions of the sale to the Town are relative to restoration of the site.

Mr. Coolidge stated that it is the Planning Board's perspective that the earth removal permit and bylaw requirements would be complied with.

Mr. Clark stated the Purchase and Sale Agreement (P&S) states that Mr. Pyne must get an earth removal permit from the Planning Board and comply with its requirements. He stated that in accordance with the P&S, Mr. Pyne can't remove more than 25,000 cubic yards before May 31, 2003.

Mr. Goldman asked if the P&S is silent with respect to restoration. Mr. Clark stated it is, and that Mr. Pyne would follow the normal procedure as outlined by the Earth Removal Bylaw and the Board's permit.

Fred White, 20 Cunningham St., noted there is no Earth Removal Agent now, and asked who will inspect the removal.

Mr. Coolidge stated that it is possible that the DPW Director will be inspecting it, and he recently had a conversation with him about that.

Mary Pratt, 102 Fruit St., asked how the land will be graded and if there would be a steep drop-off. She stated this is the first time she has heard that the operation would be for more than 1 year.

Mr. Pyne stated his agreement with the Selectmen calls for him to be completed 1 year from the date of the permit, but he would ask for a 2 year permit in case he didn't finish and the Town wasn't ready to use the land yet. Ms. Rose asked if the permit could be for 1 year with a possibility of extension. Mr. Pyne stated he would prefer a 2 year permit.

Mr. Clark stated that when the Selectmen negotiated, they allowed the seller to remove material to lower the purchase price. He stated that Sanctuary Golf was going to remove material too, and the Town might remove more material as well for construction. He stated that the removal of material by Pyne may save costs in the future, and the Board should look favorably on it and issue the permit as soon as possible. He stated he doesn't know what the school's plans are but the latest he heard was funding would requested at the May, 2004 town meeting.

Mr. White asked if the permit would be for a specific amount of earth. Mr. Coolidge stated the applicant requested 100,000 cubic yards. Mr. White stated the Town should make sure there is enough material for future fields, etc. He stated the Town should make sure that enough material is retained on-site because there shouldn't be a need to bring gravel into the site.

Nancy Goldman, 20 Fruit St., asked for a clarification of where the area is in relation to the ballfields. It was noted that the ballfields and Garner's driveway wouldn't be disturbed.

Mr. Coolidge addressed the bond needed for the project, and if it should be for the same amount as the previous permit for the property. Mr. Pyne asked when the bond is released. Mr. Coolidge replied that the bond is released when the work is done and criteria in the bylaw met. Mr. Clark stated he wants to ask the Board to reconsider its decision not to release the bond for

the previous permit. Mr. Coolidge noted that is a separate issue from the application before the Board at this time. Mr. Abate asked if the bond and the P&S are duplicative. Mr. Coolidge replied no, that the earth removal bylaw requires a bond to cover restoration. He added that he thinks \$20,000 would be adequate. Mr. Pyne stated he thinks that is a fair number.

Ms. Rose referred to an email received by Rick O'Dell relative to insurance coverage. Mr. Pyne stated there is insurance in place now, but he will check on it. Mr. Clark noted that the P&S states that the seller can remove material and must maintain insurance acceptable to the buyer and name the buyer as second insured. He read the provision from the P&S.

Mr. Coolidge asked what the cost of inspection would be by the DPW Director. Mr. Clark stated he can inspect it on DPW time.

The Board found that each of the permit criteria contained in the Earth Removal Bylaw had been met:

- A. The proposed earth removal conforms to the purpose of the bylaw.
- B. The earth removal operation on the permitted lot will not:
 - 1. Be injurious or dangerous to the public health or safety;
 - 2. Produce noise, dust, or other effects detrimental to the normal of adjacent property;
 - 3. Have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land.
- C. The earth removal activity will not result in traffic conditions on roads in the area of the earth removal activity which will cause unsafe and dangerous conditions.
- D. The regulations contained in the bylaw will be complied with.

A motion was made and seconded to issue the Earth Removal Permit with the following conditions:

- 1. Due to the proximity of the operation to the ballfields, the applicant shall erect a "snow fence" or similar at the top of the work area, to mark the area for safety purposes.
- 2. The applicant shall submit status reports every 6 months apprising the Board of the status of the project, if any problems or unforeseen situations have occurred, and how they were handled.
- 3. The hours of operation shall be Monday through Friday, 7:00 AM to 5:00 PM.
- 4. The applicant shall post a bond or make a deposit in the amount of \$20,000 with the Town to guarantee conformity with the provisions or conditions of the permit. The Town may use the bond or deposit in the event that the applicant does not comply with all of the terms and conditions of the permit and complete all restoration in a manner satisfactory to the Board and in accordance with the permit; significant public safety hazards exist which will not be addressed by the applicant; or material environmental damage has resulted from the earth removal activity and remediation will not be addressed by the applicant in a manner satisfactory to the Board.
- 5. The earth removal activity shall be inspected by the Earth Removal Agent periodically.
- 6. Grades at the conclusion of the operation shall not be in excess of 3:1, as shown on the plan. The final grade shall appear as natural as possible.

7. Sufficient erosion control shall be in place at all times in the area where earth has been removed, stored or being disturbed. The erosion control devices shall be maintained and kept in good order.
8. At the conclusion of the operation, the area shall be covered with a minimum of 8 inches of loam and seeded with a suitable cover crop. The applicant shall also plant scattered tree saplings to hasten the reforestation of the area. The species of tree shall be native and the same as exist in the surrounding area.
9. No excavation shall occur within 7 feet of the spring high water table.
10. All earth piles to be left exposed for more than 60 days and within 200 ft. of a wetland shall be stabilized by vegetation.
11. The permit expires 12 months from the date of issue.

Mr. Pyne stated he doesn't want to put up the fence. He stated the ballfields have been there for a while and there are jersey barriers and trees there already. He stated that siltation control is not necessary either and none will be installed. Mr. Coolidge stated the fence is a good idea because of curiosity. Mr. Pyne stated he would put up the fence once, but if it falls down he won't do it again.

The Board voted unanimously in favor of the motion.

Mr. Goldman asked if there would be blasting, and Mr. Pyne replied no.

Mr. Coolidge noted that Mr. Clark has requested that the Board reconsider its recent vote on the bond held for the 1999 earth removal permit.

Mr. Clark stated that there was a lot of give and take during negotiations to purchase the property. He described the area where the temporary culvert is, noting it is near a possible wastewater discharge location and allows access to it over a stream. He stated that the Town needs to get in there to do testing so they need access. He distributed a letter from Ken Clark at the Fire Dept. stating that they want access there to fight potential fires. He stated the Town is now testing the area so they need access now. He stated the Selectmen asked Mr. Pyne not to take the culvert out, and the Selectmen said they would get the bond released from the Planning Bd. for Mr. Pyne. He reviewed letters from Ted Kozak and the Conservation Commission relative to this issue. He stated that in the P&S, page 26 says the seller is responsible for obtaining a Certificate of Compliance as soon as possible after the closing, but by April 30, 2003 at the latest. He stated that if he doesn't do that, the buyer can exercise remedies, such as not removing more than 25,000 cubic yards by 5/31/03 and removal of underground storage tanks. He stated that if Mr. Pyne doesn't do what is required of the Order of Conditions and the UST removal, the collateral is in the P&S. He stated that EarthTech will be back in February to do testing in the area and the Bd. of Selectmen will submit plans for a permanent culvert if EarthTech says it is a good area.

Mr. Pyne stated he was very upset with the Board's action. He stated there are 7 or 8 pieces of concrete pipe there and they are there for the benefit of the Town only.

Ms. Rose stated that the Board wasn't apprised of any of this information before.

Mrs. Pratt asked which takes precedence, the Earth Removal Permit or the P&S.

Mr. White asked how a deed/conveyance can go through without a Certificate of Compliance, and asked for the DEP number. Mr. Clark replied that it is 188-1023.

Mr. Coolidge stated it doesn't make sense to take out the culvert until the Town knows what it wants to do there. Mr. Clark noted that the Town owns it now, and they would either have Mr. Pyne remove it or have the DPW file a Notice of Intent to keep it. Mr. Herr asked if there are funds in escrow to cover this, and Mr. Clark stated there is money in escrow to cover other things. He noted that the Town would withhold 75,000 cubic yards of material for leverage.

Mr. Herr moved to reconsider the Board's vote not to release the bond. The motion was seconded and the Board voted unanimously in favor. The Board voted unanimously to release the \$20,000 bond held for the 1999 earth removal permit.

4. Scenic Road Public Hearing – Lot 3 Wilson St. – Rosenfeld Realty

Mark Rosenfeld, applicant, and Joe Marquedant Jr., surveyor, appeared before the Board. Mr. Marquedant stated there was a recent 81-P Plan endorsed by the Board that created the lot, and they have obtained an Order of Conditions from the Conservation Commission to build a house on the property. He described the proposed driveway. He noted that there are odd pieces of stone there and it isn't much of a wall. Mr. Coolidge asked about the actual width of opening proposed. Mr. Marquedant stated it would be 15 ft. wide after construction.

The Board voted unanimously to approve the scenic road opening with the following conditions:

1. Stones removed for the opening shall be used to rebuild other sections of the wall along the property. The stone wall along the front of the property shall remain a natural dry-laid loose field stone wall. No stones from the wall shall be removed from the area.
2. No wall removal shall commence until a building permit to construct the house is received, and an Order of Conditions from the Conservation Commission is received, if necessary.
3. The width of the driveway opening shall not exceed 20 feet during construction and 15 feet after construction.
4. All work shall be completed within 6 months of the start of the work. The Planning Board office shall be notified within 48 hours of when work will begin.
5. This permit is valid for two years from the date of issue. If no construction on the lot occurs within this time, the permit shall automatically expire unless an extension is requested and granted.

The Board voted unanimously to close the public hearing.

5. Emerald Hills East/Hopkinton Highlands

Steve Mirick, representing Lodge Corp./Lane Development, appeared before the Board. Mr. Coolidge noted that the residents of the Emerald Hills East subdivision had submitted a list of issues to be addressed.

Mr. Mirick addressed the following:

- Detention basins – He stated that all had been surveyed and they made modifications to the one behind lot 29, and the others were ok. He stated a copy of that report was sent to the Board.
- Soccer field/rocks/disturbed areas – He stated that Toll Brothers would loam and seed the disturbed area where they had the construction trailer. He stated they have discussed this with Toll Bros. and they will do it. He addressed the issue of rocks around the edge of the field, noting that the large ones are off the field and small ones next to it, within 12 ft. He stated if the Board wants the small ones removed, they can do that. He noted that on the west side there are rocks that mark the edge of the wooded area and detention pond, and these should remain. He noted they are placed amongst the trees.
- Area across from 11-13 Greenwood Rd. – He stated this area was to be a parking area so it was cleared, but then the Con. Comm. didn't want that there. He added that once it is turned over to its future owner, that entity could do something there. He stated they were told by the Con. Comm. not to do anything there or a cease and desist order would be issued. He stated they had covered the area with bark mulch. He noted there is a catch basin in the area with filter cloth in it and crushed stone around it.
- Everett Circle – He stated they had completed loam and seed around the edges.
- Greenwood Rd. – He stated they have loamed and seeded in accordance with the plans.

Mr. Coolidge asked if the seed had taken hold and grass grown. Ms. Rose stated that the Town should hold funds to guarantee the work that Toll Bros. is going to do at the soccer field. Mr. Mirick stated he had submitted a bond reduction request. Ms. Lazarus noted the Board had not received a report back from its engineer on that. Mr. Coolidge stated he doesn't want to release funds if they can't see what is under the snow.

Peter Ficcari, 57 Greenwood Rd., stated that the sidewalks and loam and seed was done in October and November and it snowed immediately after that and it hasn't melted yet. He stated the work done was shoddy, and he wants to see the inspection reports that say it is ok.

Mark Bannon, 49 Greenwood Rd., stated the statement that work was completed is contrary to photographs the residents submitted. Mr. Mirick noted that the photographs were taken before they placed the cape cod berm and did the final paving of the sidewalk and road, and a lot of work was done after those pictures were taken. Mr. Bannon stated that a lot of the loam washed away. Mr. Mirick stated he provided information as to the quantity of materials furnished to the site.

Fredric Weldon, 7 Greenwood Rd., stated there is no problem with the road or sidewalk yet. He stated they are looking for loam and seed, and there also needs to be planting in the area across from 7-11 Greenwood Rd. and there were rocks placed there. Mr. Mirick stated they would need Con. Comm. approval for that. Mr. Coolidge noted that HALT could request that. Ms. Rose noted that if the area was loamed and seeded, it would not be maintained because it is adjacent to open space, not homes. Mr. Bannon stated that the land is stripped and is not in character with the rest of the area.

Mr. White stated that as a former member of the Con. Comm., the placement of rocks was used as a way to delineate areas for the developer not to encroach on, and they should be left alone.

Cathy Kuhn, 47 Greenwood Rd., asked if the area at the HALT overlook can be loamed and seeded. Mr. Mirick stated that is open space and open to the public. Ms. Lazarus noted that no one would be maintaining the area so it shouldn't be grass. Mr. Weldon stated that the homeowners association would do it. Mr. Bannon stated they want the subdivision to look good, and the developer should be responsible for leaving it in better shape. Mr. Mirick stated that Lodge Corp. told Toll Bros. that they didn't want heavy equipment from their new subdivision on Greenwood Rd.

Mr. Bannon stated that the subdivision isn't finished and they want it up to community standards. Mr. Mirick stated they stopped work when it got cold, but they agree there is still work to do. Mr. Herr suggested that the Board review the area when the snow melts. It was noted that there should be a check to determine what the Order of Condition covers.

6. 81-P Plan – Lots 14, 16, 17 Huckleberry Rd. – Oak Hill Construction

David Bartolini, applicant, described the plan to reconfigure 3 lots in the subdivision, all of which would continue to meet frontage and area requirements. He stated that the reconfiguration is necessary because of wetlands. The Board voted unanimously to endorse the plan as not requiring approval under the subdivision control law.

7. Police Station – 74 Main St.

Tom Irvin, Police Chief, appeared before the Board. The Board noted it had reviewed the revised plans submitted in accordance with its conditions of site plan approval. Mr. Irvin stated the revised lighting plan will be an improvement over current conditions and added that there are security issues with the site also. Ms. Altamura asked if the lighting can be reduced more. She stated she wants the area livable and walkable, not over-lit. Mr. Irvin stated he has been told that it will be darker than it is now, and it will be an even light. Ms. Altamura asked if the lights can be dimmed in the future if desired. Mr. Irvin stated it could be, as different bulbs can be used. Ms. Altamura asked if the light source within the fixture will be seen. Mr. Irvin replied no, that the model has glass, not a bulb below the fixture.

Ms. Wright noted that the existing granite sign would be retained, and asked if the new wall sign shown on the building was necessary. She noted that the lights proposed for the signs are two 150 watt halogen bulbs, and wondered if this was too much. Mr. Irvin stated they need both signs, and he would look into the wattage. Mr. Herr stated that the lighting looks good.

Ms. Wright asked about the Design Review Board recommendation of darker color garage doors. Mr. Irvin stated he has no problem with that.

The Board voted unanimously to approve the revisions shown, with the recommendation that they look at the lighting for the signs to see if it will be too bright.

8. Whisperwood Preserve

The Board reviewed a proposed covenant for the approved Whisperwood Preserve subdivision, noting that the appeal period had passed with no appeal. The Board voted unanimously to approve the covenant and to endorse the definitive subdivision plan.

9. Town Meeting Articles

A. Proposed Zoning Change – 77 Main St.

Ed Beckett, owner, described the proposal to change the zoning of the land at 77-79 Main St. from Business and Residence A to Business. He noted that there are 6.9 acres of the 1.5 acre parcel that are zoned Residence A and the rest is Business. He stated they see the need to get doctors in a centralized building, and would propose to construct a professional office/medical office building on the property behind the existing office/retail building. He stated the building would be smaller than the existing building, about 30,000 to 40,000 sq. ft. He stated there would be an option to use access to Grove St. as another access, noting it would be at the discretion of the Board. He showed a proposed layout of the area. Mr. Coolidge stated he would rather not see a driveway there. Ms. Rose asked if there would be opposition to the plan. Mr. Beckett stated that Marshall Ave. residents may be concerned. Mr. Coolidge asked if sketches of what a building would look like have been prepared. Mr. Beckett stated he wants not to have a design discussion at Town Meeting. He stated it would be 2 or 3 floors. He stated they would like the Board to sponsor the article. Mr. Coolidge stated he thinks a concept drawing of the building would be beneficial. Mr. Herr agreed. The Board voted unanimously to sponsor the proposed change in zoning district for 77 Main St. from Residence A to Business and to submit the article into the warrant.

B. Other Articles

The Board voted unanimously to submit the following articles into the 2003 annual town meeting warrant.

1. Garden Apartments in Residential Districts - amend to allow waivers for road design and construction standards.
2. Senior Housing Development – amend to allow waivers for road design and construction standards.
3. Open Space and Landscape Preservation Development – Delete the lot width at building line requirement and an outdated reference to the Subdivision Rules and Regulations.
4. Definition of Lot Frontage – Clarify the meaning and method of measurement of the depth requirement.
5. Accessory Family Dwelling Unit – Delete a redundant sentence.
6. Maximum Heights and Rural Business District - Clarify which districts the Maximum Heights section refers to, and move the height requirement for Rural Business District into that section of the bylaw.
7. Residences in Business Districts – Move requirement relative to residences in Business districts to the Business District section.
8. Site Plan Review – New bylaw that removes the requirement for a Special Permit for Major Projects, and requires site plan review for uses exempt from zoning pursuant to MGL c. 40A sec. 3 if they meet the bylaw thresholds. Other changes include appeals of Planning Board decisions to the Board of Appeals instead of to the court system, and changes to the time limits in which the Board must act on applications.
9. Scenic Roads – New definitions for clarification and an increase in fines.
10. Trees – Clarification that trees within the right of way of public ways fall under the bylaw and enforcement provisions.

11. 53E ½ Account – Establish a 53E ½ account. If the Site Plan Review article is adopted, the Planning Board will no longer be able to use the revolving fund authorized by MGL c. 44 sec. 53G for consultant fees for Site Plans.
12. Street Acceptance – Accept completed subdivision streets as public ways.
13. Street Discontinuance – Discontinuance of unconstructed paper streets. The Board is not proposing any streets at this time, but will review lists and determine whether any should be proposed.

The Board voted unanimously to request the use of Town Counsel to review the zoning articles and request his comments prior to the Feb. 24 hearing.

10. Other Business

The Board voted unanimously to approve the Minutes of Dec. 16, 2002. The Board voted unanimously to pay outstanding bills.

Mr. Coolidge noted he had made an appointment to speak to the Personnel Committee about establishing a part-time Planner position to handle housing and economic development, and also to upgrade the classification of the Town Planner position to Planning Director.

Mr. Coolidge stated that the Affordable Housing Task Force is looking at higher density housing, and there has been some discussion about constructing 60 units on the former Pyne property. He noted that this will be part of the Housing Plan discussion.

Adjourned: 11:00 PM

Elaine C. Lazarus, Town Planner

Approved: March 10, 2003