

# HOPKINTON PLANNING BOARD

Monday, April 7, 2003 7:30 PM

## MINUTES

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PRESENT: John H. Coolidge, Chairman, Sandy K. Altamura, Vice Chairman, Mark Abate, Scott Aghababian, Pamela Duffy, Brian Herr, Tina Rose

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

### **1. Administrative Business**

The Board voted unanimously to pay outstanding bills.

### **2. 81-P Plan – Leonard St. – McBride**

Bruce Kinsman, surveyor, and George McBride, owner, appeared before the Board. Mr. Kinsman described the plan to create two non-buildable lots off Leonard St. He stated that the owner intends to apply to the Zoning Board of Appeals for a variance to allow a house to be built on one of the lots, because the lot lacks sufficient frontage. He stated the lot at the end of Leonard St. has 24.94 feet of frontage, and has a right of way to the old railroad bed. It was noted that one of the new lots would be landlocked.

Mr. Herr asked why the land was being divided if there will only be one house. Mr. McBride stated he didn't know. Mr. Kinsman stated he thinks the landlocked lot will be conveyed to someone else. Mr. McBride stated it is in Chapter 61B tax status. Mr. Coolidge noted that the Planning Board isn't certifying that the lots are buildable with its plan endorsement, and the plan notes they are not to be considered building lots. He suggested checking with the Assessors office relative to the withdrawal of some land from Ch. 61B for a house, adding that if that is the case, the Town has the right of first refusal under the statute.

A resident in attendance asked how much it would cost to take the land out of Chapter 61B, adding that no one has mentioned notification to the Town. The process was discussed.

The Board voted unanimously to endorse the plan as not requiring approval under the subdivision control law.

### **3. Connelly Hill Estates**

Ron Nation, developer, appeared before the Board. He referred to an issue of whether granite guttermouths are required in the subdivision, noting that the Board's engineer raised the issue. He stated that they weren't required in the adjacent subdivisions but the detail is shown on the approved plan from 1990. He requested that they be formally waived. He stated that historically, the granite guttermouths come out of alignment and the snow plows catch them when they are used adjacent to cape cod berm. He proposed using cape cod berm at the catch basins instead. Ms. Altamura stated the roads in this subdivision should be consistent with the other phases there.

The Board reviewed the request to establish a performance guarantee amount for Bowker Road and to release lots from the conditional approval agreement. The Board reviewed information received from its engineer.

The Board voted unanimously to establish a performance guarantee amount of \$42,828.00 for Bowker Rd. from sta. 0+25 to sta. 12+00. The Board voted unanimously to release lots 5, 6, 7, 8, 36, 37, 38, 40, and 41 in Connelly Hill Est. from the conditional approval agreement upon receipt of the performance guarantee. The Board voted unanimously to waive the requirement for granite guttermouths.

#### **4. Hopkinton Woods**

Paula and Michael Aschettino, developers, appeared before the Board. Mr. Coolidge stated the issue is the water at the top of the hill flowing into the road and icing in the winter. He stated the small drainage structure at the top was frozen and not performing when he visited the site within the last few months.

Mrs. Aschettino stated that when the plan was approved, there was no provision for the drain at the top of the road. She stated that when the road was under construction, there was runoff in the spring so they put in the temporary basin. She stated that it is connected to the drainage system in the road. She stated they never placed it in a proper spot to be a real catch basin. She showed photos of the area. She stated that when the two new houses at the end of the road were built, ditches were created along the driveways that run down to the road. She stated she isn't responsible for the problem because of them since the homeowners wanted it that way. She stated that the builder of the homes signed away responsibility for resolving the problems to one of the homeowners.

Ms. Rose stated that Ms. Aschettino is the developer and is still responsible for handling the runoff within the roadway.

Scott Hollinger, 3 Trailside Ln., stated the problem is water. He stated that a lot of water comes to the Y at the top of the road from both sides. He stated that Mr. Mshooshian, the builder, failed to finish the work on his lot and there was money in escrow to cover that work on the house plus the detention pond on his property that hadn't been built yet.

Mr. Coolidge stated that the issue isn't the detention pond because that is in another area.

Mr. Hollinger showed photos of the area. He stated that a stream has been created and water collects in the wetland above the road and then drains into the Y when it reaches a certain level. He stated that only about 20% of the water running into the area comes from along the driveways.

Mr. Coolidge stated that everyone knows the problem, and asked what the solution is. Mrs. Aschettino stated that along the Davis property line the wet areas have dried up. She stated that water needs to recharge the area, and at the time of approval there was concern about flooding at the Ash St. culvert. She stated that a pipe should be put in under the driveway and pipe the water

to the Davis property, noting that eventually it all goes to the culvert anyway. She stated she doesn't think she is responsible for the homeowners problems. Mr. Hollinger stated he wrote to the Planning Board two years ago and the issue still isn't resolved. He stated the homeowners spent \$1,000 on snow melt and salt this winter. Ms. Rose noted that the problem of water was contained in a 1999 report from Guerriere & Halnon, and still hasn't been resolved.

Joe Marquedant Jr., surveyor, stated that the design was solid, and the review by Fay, Spofford & Thorndike confirmed that. He stated that no one knows what was built. He stated that final work to complete the remaining work was in 2001. He stated that the solution is to get the water to the detention pond on the Hollinger lot or to Ash St. He stated the temporary catch basin is a dewatering device and isn't intended to handle the current problem. He stated that if the intent is to get the water out, one can make the basin work better. Mr. Goncalves asked if there would be a problem downstream. Mr. Marquedant stated it is possible. Mr. Hollinger noted that the water was already going there before the subdivision. Ms. Altamura asked if more water should go to the Davis property. Mr. Marquedant replied no, as the water to the Davis property comes from a different direction. He noted that the original drainage calculations assumed that the subdivision lots were developed.

Mrs. Aschettino stated that the builder sent a letter to Mr. Hollinger and they had an arrangement where he would take over responsibility for the detention pond. She stated that Mr. Hollinger should use that money to fix this problem.

Mr. Hollinger stated that the wetlands is a low point. He stated that the detention pond was intended for sheet flow from uphill, noting that no pipes entered into it. He stated that 80% of the water flows out of the woods and directly into the road, and the problem would have existed regardless, because there were no changes to the area around the wetlands. He stated that a solution could be to pick up the water with the drain or put a detention pond there, but the electric box is there also. He stated that the builder defaulted and he still needs to pave his driveway with the escrow funds. He stated there were no funds to fix Mrs. Aschettino's problem.

Mr. Goncalves asked why the hydrological study didn't pick up this potential problem. Mr. Marquedant stated the water was intended to flow to the detention pond area and where the house is. He stated the problem is that the construction on the lot is different than originally assumed. Mr. Goncalves stated that the direction of the water flow to the Y can't be changed, since it is coming from a wetland. He asked why this wasn't found during the development stage. He stated that groundwater appears to have been a problem during construction. Mr. Marquedant stated that a portion of the water was intended to go there, the rest to the pond. He stated there isn't more of a volume than anticipated, there is pooling of water at the Y. He stated that a solution to get the water into the closed drainage system would be best. Mr. Herr asked about the cost of that. Mr. Marquedant replied it could cost \$5,000 to \$7,000 for a study, then double that for construction. He stated that some of the work was done in the second study for moving the detention pond, so the cost could be less. Mr. Coolidge stated that the problem needs to be fixed. Mr. Herr stated that the bond amount held isn't sufficient to cover the cost. Mr. Marquedant stated they would need to see how much flow there is, noting that he thinks it is the same amount, just going to a different place.

Mrs. Aschettino stated that since the builder signed over responsibility to the Hollingers, they should pay the cost to fix the problem. Ms. Rose stated that Ms. Aschettino is free to pursue this viewpoint with the builder. Mr. Coolidge stated that Mrs. Aschettino is the developer, and she is responsible for deciding how it will be paid for. He stated that the Planning Board needs to ensure that the work is done.

Mary Pratt, 102 Fruit St., stated that all stormwater in new developments needs to be retained on-site.

Mr. Coolidge stated there is a safety problem in the winter. Mr. Hollinger asked if anyone knows if the road is built to plan. Ms. Rose stated that the inspection reports indicate that it is.

Mr. Coolidge stated the Board needs the connection to the system engineered. He stated that an engineer needs to study it and then design it. He stated that the developer is responsible for this. Mrs. Aschettino stated she will talk to Mr. Marquedant and then proceed.

Steve Rosseel, 1 Trailside Lane, stated that the problem must be resolved before next winter.

Mr. Coolidge stated that the developer needs to come back with a design. Mr. Herr asked Mrs. Aschettino if she is prepared to take care of this. Mrs. Aschettino stated she can do it, will work on it, and will take care of it before winter. She stated that she won't put up any more bond money. Mr. Goncalves asked if no bond is in place, how can the Board make sure it gets done. Mrs. Aschettino stated she is not prepared to put up more bond money but will take care of the problem. Mr. Goncalves suggested that Mrs. Aschettino talk to her attorney then come back with a schedule. He stated he wants to make sure the solution will work. Mr. Marquedant estimated it would take one month to do the engineering.

Mr. Coolidge stated that the Board will review it again in one month and will require a bond at that time. Mrs. Aschettino stated she is concerned about that. Mr. Coolidge stated Mrs. Aschettino should also talk to the DPW about the culvert under Ash St. and see if there are any existing problems there. He noted that the water is already going there now.

The Board decided to discuss the matter at its meeting on May 12 at 7:45 PM.

#### **5. Olde North Mill**

The Board reviewed a request to reduce the performance guarantee amount for Emerson Way in the Olde North Mill subdivision. The Board decided not to reduce the amount until the remainder of the open space is conveyed to the Hopkinton Area Land Trust.

#### **6. Public Hearing – Deerfield Estates – Amendment to Senior Housing Development Special Permit**

Bill Pezzoni, attorney, and Bill Depietri, applicant, appeared before the Board. Mr. Aghababian informed the Board that he is not a direct abutter to the property but is a nearby resident, and he might be affected by the development.

Ms. Duffy asked if the applicant is still suing the Town. Mr. Pezzoni stated that the submitted plan could resolve those issues. Ms. Duffy stated she is not sure if they are supposed to talk about the issues with a lawsuit pending. Mr. Pezzoni stated that if the amended plan is approved, the issues would be resolved.

Mr. Pezzoni stated that the approved concept plan showed 55 units and the revised plan shows 46. He stated they pulled the units out of the wetland buffer zone as best they could, and a few minor encroachments in the buffer remain. He stated there is a request for two waivers, one for the radius of roadway from 150 ft. to 90 ft., and the other for a reduced side setback for 4 buildings. He noted that the reduced radius allows for room for maneuverability of fire apparatus.

Mr. Abate noted that parallel parking is proposed where the waiver of the radius is requested, and asked if this would be a problem. Mr. Depietri stated it should be ok. He stated they can make part of the road one-way if that would help.

Ms. Altamura asked about the maximum grade, which was raised in FST's letter. Mr. Depietri stated there is no change from the previous plan, adding that no road profile has been drawn there yet and they will do that for the definitive stage. He stated that their engineer does not feel that a waiver will be necessary.

Ms. Rose asked about the sight distance issue raised by FST. Mr. Depietri stated if the road becomes one-way in that area, it isn't an issue anymore.

The issue raised by FST relative to maneuverability of vehicles in the parking lot at the tennis court was discussed. Mr. Depietri stated they could redesign the parking lot and tennis court to make it more maneuverable.

The Board stated that the plan indicates that a walking path is proposed to count as some of the "active recreation" area, but walking is not active recreation. Mr. Depietri suggested adding a field where one of the two parking lots at the tennis court was proposed.

Ms. Rose stated that they need a variance where less than 15 ft. of landscaping is shown, across the driveway from building #1. Mr. Depietri stated they would delete the parking spaces there instead. Ms. Rose asked about the status of approvals from the Bd. of Health. Mr. Depietri stated they will have them out to witness tests when they are ready. Mr. Pezzoni stated that the age-restricted units will result in less than 7,000 gal. per day so no DEP approval is necessary.

Mr. Abate asked if there had been testing around the well site, noting that the high elevation of the area means there isn't a lot of water. Mr. Depietri stated they have done a hydrofracture analysis and they will have to go at least 600 ft. down with the well.

Ms. Lazarus reminded the applicants that the Board doesn't have the ability to grant a waiver of the roadway radius, but would be able to after Town Meeting if the proposed amendment to the bylaw is adopted.

Mr. Aghababian questioned the testing of existing wells that was discussed before. Mr. Depietri stated they will use the existing Dempsey well during the test to see if it is affected, plus the wells of other people in the area who are interested. Mr. Aghababian stated there have been problems with the wells in the area. He stated there is also an issue about traffic on Lumber St. and it is dangerous now. Mr. Depietri stated they have reduced the number of units.

Ms. Lazarus asked if there would be a garage for the existing house. Mr. Depietri replied no, and they will change the entrance to the house to the other side and use the parking spaces there. Ms. Wright stated the applicant had discussed talking to the Historical Commission before about working on the house to make sure it is appropriate. She stated the house contributes to the character of the street, and the Town should make sure that what is done is appropriate. Mr. Depietri stated they will have an architect look into it. He stated they will invite the Historical Commission to the walk-through with the architect.

Ms. Altamura asked about lighting, and if the tennis court would be lit. Mr. Depietri replied no. Ms. Altamura asked about other proposed lighting such as streetlights, front doors, and garages. Mr. Depietri stated they will propose lamp posts in front of each unit. Ms. Altamura stated that she thinks that will be too light intensive. Mr. Depietri stated they should look at Brook Hollow, and they would propose the same lamps here. Ms. Altamura noted that the lamps shine light outward, not down. Mr. Depietri stated they would put them all on a timer or photocell. Ms. Altamura replied it would still create too much ambient light. Mr. Pezzoni stated they will prepare a photometric plan for the site plan submission.

Mr. Goncalves asked about the status of the review with the Conservation Commission. Mr. Depietri stated they are happy. Mr. Pezzoni stated they are the happiest they've been so far, and the layout works better.

Ms. Duffy asked if there would be more planting between the driveway and Rt. 495, and Mr. Depietri replied yes.

Mr. Goncalves asked about the distance to the Rod & Gun Club, noting that residents who purchase units should be made aware of the noise.

Mr. Coolidge asked about the open space boundaries. Mr. Depietri stated they will provide a larger plan with the boundary delineated.

Ms. Wright stated that the detention ponds should have natural forms and suggested making the angular one more natural looking.

Mr. Herr asked if any of the units would qualify as affordable housing, and Mr. Depietri replied no. Mr. Pezzoni stated the development will have four price ranges. Mr. Depietri stated that the middle units would be priced in the low \$300,000's.

Mr. Herr stated that the bond amount for the development should be higher than normal to cover the landscaping since it is usually skimmed on. Mr. Depietri stated that when they develop property they usually do the landscaping early because it helps to sell the units.

The Board discussed possible conditions of approval, and asked if the applicant would be willing to reimburse the Town's legal costs incurred relative to the appeal. Ms. Lazarus stated the amount to date is \$144.00. Mr. Depietri stated he would agree to that.

The Board voted unanimously to approve the amended Deerfield Estates Senior Housing Development Concept Plan with the following conditions:

1. The waiver of the setback requirement for buildings 1, 9, 17, and 18 is approved as shown on the Concept Plan. The Site Plan shall include a plan of how the buildings will be screened from abutting property. The setback of lesser width will be sufficient to visually screen and/or separate the development from adjacent property with adequate screening. The adjacent property is open space owned by the Town of Hopkinton.
2. There shall be a minimum of 15 ft. of landscaping adjacent to property lines, as required by the bylaw. Any distance less than 15 ft. shown on the Concept Plan is not approved and shall be modified for the Site Plan.
3. Unless a variance is granted by the Board of Appeals or the Site Plan is submitted after an amendment to the bylaw proposed for the May, 2003 Annual Town Meeting is adopted, the minimum centerline radius, sight distance, and road grades shall conform to the Subdivision Rules and Regulations requirements. The Board does not have the authority to waive these requirements at this time. If the bylaw amendment is adopted, the Board would consider the waiver requests at the Site Plan stage.
4. The Site Plan shall provide the required amount of active recreation area as specified by the bylaw. The amended Concept Plan showed a walking path designated as part of the recreation area, but walking is considered passive, not active recreation, and cannot be included in the recreation area calculation.
5. A plan shall be submitted to the Planning Board office within 30 days of the date of the Decision showing the delineation/boundaries of the open space and the recreation area.
6. The bylaw states that one of the general objectives of the bylaw is "To promote the beneficial use and conservation of land by relating proposed buildings to the unique features, conditions and natural qualities of the site. Beneficial use shall be measured in terms of topography...buildings or other natural features, the type and size of trees to be retained or removed, the use and retention of natural ground cover, open space, water, swamp, other natural water source or feature, stone walls, ledge or any other feature of recognized conservation or historical significance." The existing house on the property was constructed around 1745, and the plan indicates that it will be renovated and become one of the dwelling units on the property. Because the house is one of the oldest remaining in Hopkinton and contributes greatly to the historic character of Lumber St., the Board is concerned that its renovation could render the house so different that it would not be recognizable as a historic structure. Therefore, the Historical Commission shall have involvement in development of the plan for modifications to the existing house, to the satisfaction of the Planning Board. The applicant shall work with the Historical Commission in this regard.
7. The applicant appealed the October 31, 2002 Special Permit for Senior Housing Development issued by the Board. The applicant stated that if the amended Concept Plan was approved, the appeal would be dismissed. At the public hearing, the Board requested that the applicant reimburse the legal costs incurred by the Town in defense of the appeal, and the applicant agreed.

**7. Highland Park IV**

Tom Nealon, representing the applicant, requested an extension of the Highland Park IV subdivision definitive plan approval and OSLPD special permit. Ms. Altamura asked when he thinks they will be finished with the Land Court process. Mr. Nealon stated he thinks it will be one year, and he was told to ask for a four year extension. He stated that the Conservation Commission has asked that the developer phase construction of the road and build 5 to 6 houses a year. He stated there is currently a cloud on the title and it is moving through the Land Court process. Ms. Altamura stated she isn't sure there has been enough change, adding that the developer could start the process over when the issues are resolved. She noted that rules and regulations change over time. Mr. Herr stated he would be opposed to extension and would like to see the developer go through the process again. Mr. Goncalves stated it is a bad precedent to set with regard to keeping the plan going. Mr. Coolidge noted that the Land Court issue and timeline is out of the Board's control. Ms. Wright stated that a lot of time and money has been spent on the plan over the years, and the problems are out of the Town's and developer's control.

The Board voted unanimously to extend the OSLPD Special Permit and condition #16 of the June 14, 2002 Certificate of Planning Board Action approving an amendment to the Highland Park IV definitive subdivision plan, for one year from May 1, 2003.

**8. Street Acceptance**

The Board reviewed the streets proposed for acceptance at the annual town meeting, and developed the following list of work to be done by the respective developers:

- Alprilla Farm Rd. – sweep road, clean catch basins
- Brook Hollow Ln. – sweep road, clean catch basins, loam & seed in front of unfinished lots, remove post at Cross St. next to street sign.
- Emerson Way – clean catch basins, sweep road, loam & seed near Clinton St., landscape circle, plant street trees.

The Board discussed the streets in White Oak Estates (Longwood Dr., Emma Dr., Meadowland Rd., Ralph Rd.). Mr. Coolidge stated that the wall was put in the basin on Emma Dr. several years ago because the inlet pipes were higher than the outlet pipe. He stated that the water now goes under the wall and the inlet pipes need to be cleaned of silt. He stated the settling basin on DEM property across Spring St. from Ralph Rd. appears to be working, and the other one that is supposed to be across Spring St. from Longwood Dr. hasn't been built. It was noted that the Con. Comm. had stopped that work a few years ago and this needs to be resolved. The Board decided to write a letter asking that these and other items discussed be addressed by the developer.

The Board voted unanimously to recommend that town meeting accept Alprilla Farm Rd., Brook Hollow Ln., and Emerson Way as public ways.

The Board discussed the article submitted by petition to accept Montana St. as a public way and take it by eminent domain. The Board questioned the costs to the Town of this action and whether there is a benefit to the Town. The Board decided to recommend to the Board of Selectmen that they consult Town Counsel relative to the Town's liability of taking the land by eminent domain where ownership is unclear, and the precedent that this would set.

**9. Other Business**

Hopkinton Highlands II – The Board reviewed the surety company bond proposed by Toll Brothers for the Hopkinton Highlands II subdivision. It was noted that the Board had voted the amount at a recent meeting and the form had been reviewed by the Town Treasurer. The Board voted unanimously to sign the bond form.

Liberty Mutual – The Board reviewed a letter from the Design Review Board relative to proposed minor changes to the Liberty Mutual site plan involving a material to be used on the exterior and the patio, and a change to the trellis/portico in front of building E. Ms. Duffy stated that trucks seem to be going onto the lawn of the neighbor across the street when they pull out of the driveway, and this should be addressed. The Board decided that the changes were acceptable, and to let Liberty Mutual know about the truck issue.

Sunshine Preschool, 1 Briarcliff Dr. – The Board noted that its 3-month review needed to be scheduled, and the Police Dept., Fire Dept., and Dir. Of Municipal Inspections should notify the Board of any problems they have observed at the site.

Adjourned: 10:30 PM

Elaine C. Lazarus, Town Planner

Approved: June 2, 2003