

HOPKINTON PLANNING BOARD

Monday, September 29, 2003 7:15 PM

MINUTES

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

.....Elaine C. Lazarus, Planning Director

1. White Oak Estates

Ray Ruggieri and Bill White, W&R Realty Corp., the developer, appeared before the Board to request a reduction in the performance guarantee amount held for the White Oak Estates subdivision. Mr. Coolidge reviewed recent discussions at the Conservation Commission meetings relative to the subdivision, noting that a plan to better handle the runoff on the opposite side of Spring St. has been developed, the catch basins have been cleaned, and water tested in Emma Dr. and Ralph Rd. to see if it contains sediments. Mr. Ruggieri stated the pipes were cleaned as far as the equipment could reach, they hired Provencher Engineering to review the plans for drainage on DEM property, and have made minor alterations to them. He stated they haven't received anything back from the Con. Comm. since they were submitted. He stated on Aug. 28, 2003 Provencher Engineering, Con. Com. representatives, and DEM went to the site. He stated that water samples were taken at several locations. He stated they don't feel there is any runoff containing silt and erosion from the subdivision, and he believes the problem comes from the salt and sand applied to the subdivision and Spring St. during the winter. He stated that he received the lab results today on turbidity in the samples. He stated at the very last catch basin, the water is the cleanest. He noted that for turbidity, the maximum is 10 and anything over that is a problem. He noted that in the subdivision there were no results over 5 and it was during a substantial rainfall. He stated the results have been faxed to the Con. Comm. and DEM, and distributed a copy to the Board. He stated he expects the same results when Longwood Dr. is sampled.

Mr. Coolidge stated that the Con. Comm. wants the work on DEM property to be done. Mr. Ruggieri stated they will begin when they receive the Order of Conditions. Mr. Coolidge stated he is concerned with the amount of salt and sand applied in this area because it all ends up on DEM property, and that the DPW should address it. Ms. Rose asked if there is any chronic icing in the road that requires the salt and sand. Mr. Ruggieri noted that it is the steepness of the roads that requires it.

Mr. Coolidge reviewed the list of remaining work in the subdivision, and items added by the DPW Director today. Mr. Ruggieri stated that the Con. Comm. is holding a \$6,700 bond to cover the improvements to DEM property. The Board noted that its vote on an amount could include the \$6,700 bond since the Board will be requiring an amount for the same item. Mr. Abate asked what will happen if the work doesn't solve the problem. Mr. Ruggieri stated that the engineer feels it will work.

The Board voted unanimously to reduce the performance guarantee amount held for the White Oak Estates subdivision to \$32,832.00 to reflect the amount of remaining work, and to authorize the release of funds held in excess of this amount to the developer.

2. 81-P Plan – Equestrian Drive – Touzjian and MacDonald

Bruce Kinsman, surveyor, described the plan to combine three parcels into one to create a building lot fronting on Equestrian Drive. Ms. Duffy advised Mr. MacDonald, the buyer, that there were problems with erosion in this area during the construction of Equestrian Dr., and care should be taken when developing the lot.

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

3. Site Plan Review Minor Project – Middlesex Savings Bank – 10 Main St.

Douglas Watts, Financial Concepts, Inc., and Bruce Weisberg, Middlesex Savings Bank, appeared before the Board. Mr. Watts described the plan to add a handicapped ramp at the front door of the Bank to provide ADA compliant access and also described plans to improve the building facade. He stated they would build up the parapet in front and will change the brick color to a combination of gray and white. He noted that the handicapped ramp railing would be black steel.

Ms. Altamura asked for clarification of the distance between the handicapped ramp and the street. Mr. Watts stated that there would be 8 to 10 feet of sidewalk from the edge of ramp to the street. It was noted that the ramp would be on private property and not within the public right of way. He stated they also propose to clean up the area adjacent to the driveway on the east side, and pave the entire driveway. Mr. Weisberg stated they will try to remove the bump in the driveway also. Mr. Watts noted that the basic grade has to stay as it currently is, because of the elevation of the street and parking lot behind the building. Mr. Watts stated that the Bank will be completely renovated inside and made ADA accessible.

Ms. Altamura noted that review by the Design Review Board (DRB) is not required for minor site plan review, but it would be helpful if the applicant also reviewed the plan with the DRB. Mr. Watts stated they would be willing to do that.

Ms. Wright asked about a change proposed to the door in the back of the building. Mr. Watts stated it will be in the same location, but have a different look. He stated it is a means of egress, but not a public entrance. Ms. Altamura noted it might be helpful if people could enter from the back where the parking lot is. Mr. Watts stated it would be, but it isn't ADA accessible so can't be used for that purpose.

Mr. Weisberg stated they plan to eliminate the parking space beside the building on the driveway and mark it "no parking" on both sides, because parking there inhibits access from the back parking lot.

Ms. Wright asked if the established planting area on the east side of the building would be changed. Mr. Watts stated they plan to improve it, and Mr. Weisberg stated that some of the plants are getting too tall. Mr. Watts stated they would like to add some color there.

Ms. Wright asked if there would be a way for people to access the front door without using the ramp, and Mr. Watts stated there will be steps on the opposite side.

Mr. Herr asked about the timeframe for construction. Mr. Watts stated they intend to start on Nov. 1, 2003 and it will be a 4 to 6 month project. Mr. Abate asked if there are utilities under the sidewalk, and Mr. Watts replied yes, but all work will be above ground.

Mr. Herr asked if the existing building sign would be retained. Mr. Watts replied that it will be replaced, but the new one hasn't been designed yet. He stated it will be 30 sq. ft. but the materials haven't been selected.

Ms. Altamura asked if the exterior lighting would be changed, and Mr. Watts replied no.

Michael Shepard, Building Inspector, asked if the sign will be backlit. Mr. Weisberg replied it would not be, and would probably be lit by gooseneck lights. It was noted that the current sign is backlit. Mr. Shepard stated he would like to get away from backlit signs.

Mr. Watts stated they would like to replace the front windows, but don't know yet if they can afford it. He stated if funds allow for that, they will return to the Board because the windows will be larger.

The Board reviewed the criteria for approval contained in the Site Plan Review bylaw. The Board voted unanimously to state that the project conforms to the criteria. The Board voted unanimously to approve the Site Plan with the following conditions:

1. No mechanical equipment shall be kept on the sidewalk during construction, and all mechanical equipment shall be screened from view from the ground after construction.
2. Lighting on the building shall be directed downward and not outward or upward.
3. If the sign on the front of the building is to be lit, it shall have exterior illumination.

Ms. Wright left the Board at this time.

4. Site Plan Review Minor Project – 168 Hayden Rowe St. – Hopkinton Historical Society

Mr. Coolidge stated that he would abstain from voting on the application because it will receive Community Preservation Act (CPA) funding and he is a member of the Community Preservation Committee.

Robert Chesmore, representing the Hopkinton Historical Society, described the project. He stated that the existing building will be picked up, moved behind the existing foundation, then moved back onto a new foundation in the same location. He stated the building will have a cellar, which it doesn't now. He stated that because of this, they need an egress from the basement to the outdoors, and it can't be in the front or back of the building, so must be on the side. He described the small addition to accommodate that. He stated there will be a ramp on

the back of the building for handicapped access to the first floor. The Board questioned the parking lot shown on the plan, and asked if approval of that was also requested. Mr. Chesmore stated they are not asking for the parking lot, and it shouldn't have been shown on the plan. He stated that if they decide to have a new parking lot, they will come back.

The Board reviewed the Site Plan criteria contained in the bylaw and determined that the criteria were met. It was moved and seconded to approve the Site Plan with the following conditions:

1. All mechanical equipment shall be screened from view from the ground.
2. Lighting on the site shall be directed downward and not outward or upward. The light levels shall be reduced at night when the building is unoccupied.

Mr. Herr asked if there is concern that the project will run out of money before the building is back on the foundation. Mr. Chesmore stated it isn't a problem. Mr. Coolidge noted that the Historical Society has received \$100,000 in CPA funding. Mr. Chesmore stated that the Society also has an additional \$100,000 for the project.

The vote on the motion was 5 in favor with two abstentions (Duffy, Coolidge)

Ms. Wright returned to the Board at this time.

5. Continued Public Hearing – Hopkinton Highlands III – Garden Apartment Site Plan – Overlook Rd.

Ben Smith, engineer, appeared before the Board. He stated that they now have an opportunity to relocate the well where the cul-de-sac was previously proposed now that the road has been shortened. He stated that this will further remove it from the septic system and it will be in a totally different watershed. He stated they will conform to DEP requirements plus have a margin of safety in that regard. It was noted that the revised plans had not been reviewed yet by the Board's engineer.

Ms. Altamura questioned the length of the road, and if it had increased in length since the last meeting. Mr. Smith stated it is the same, 1,150 ft. to the back of the cul-de-sac. The length of the road was discussed. Mr. Smith asked to receive the Minutes of the last hearing by email, and Ms. Lazarus will transmit them.

Mr. Smith noted that the septic system leach field will be shrinking somewhat because of the reduction in the number of units. Ms. Altamura stated she thought that the road wouldn't exceed 1,000 ft. in length, and now the number of units have increased from 22 at the last meeting to 24 now. She stated she isn't happy about that. Mr. Abate noted that units are going to be looking out at the leach field, and this wouldn't be desirable.

In response to a question, Mr. Smith stated that unit sizes have been reduced to 26 ft. by 48 ft. and this doesn't include the garages. Ms. Altamura noted that the project is designed so that one will see practically only garage doors as one drives down the road, and this will be unattractive. She stated that this is an upscale area and she doesn't think it would be a good selling point either. Mr. Smith stated that the unit design is a result of marketing and they look to provide something appealing to buyers. Mr. Abate asked if there would be decks on the back of units.

Mr. Smith stated that isn't proposed now, but it there could be decks. He stated that an architect has recently been hired to flesh out the designs, and they have gone to great lengths to address the Board's issues.

David Goldman, Hopkinton Area Land Trust, asked about the open space that will be set aside and its future ownership. Mr. Smith stated ownership is at the discretion of the Board. He stated that the Conservation Commission expressed an interest in holding a conservation restriction. Mr. Goldman stated this is a key piece in the trail system in the area, and if it was HALT, it would require stewardship.

Mary Pratt, 102 Fruit St., expressed concern about water supply, noting that the water is currently recharging Hopkinton Reservoir and it wouldn't anymore.

The Board voted 7 in favor with Mr. Herr abstaining to continue the public hearing to November 3, 2003 at 8:30 PM, and to grant an extension of time for the Board to file a decision until November 7, 2003.

6. Brook Hollow Estates

The Board reviewed a request to reduce the performance guarantee amount for the Brook Hollow Estates subdivision. No one was present representing the developer. Ms. Rose noted that an amount should be retained for street trees in the event that the newly planted trees do not survive. Mr. Coolidge noted that the DPW Director recommended that \$1,000 be retained for crack sealing.

The Board voted unanimously to reduce the performance guarantee amount to \$20,000 and to authorize the return of funds held in excess of this amount to the developer.

Mr. Goldman stated that the trail has been moved so it is inside the open space, it has been marked, and flora and fauna along the trail is identified. He stated it seems like it is being used by people and horses.

7. Administrative Business

The Board reviewed a request by the Board of Selectmen to designate one of its members to serve on the Housing Partnership Committee. The Board voted unanimously to designate Pam Duffy, with Mark Abate as an alternate.

8. Next Generation Children's Center – 2 Wood St.

The Board discussed a memo received from Town Counsel with the proposed modified conditions that were negotiated at a meeting with the owner, his attorney and three Board members the previous week. Mr. Abate stated that his wife is related to James Burgoyne, the attorney for the owner, and that he will not participate in the discussion.

Mr. Coolidge gave a brief history of the project. Ms. Altamura stated that the site is very dangerous from a traffic perspective, and it is still a problem. The Board noted there isn't sufficient time to discuss the issues at this meeting, and it is also important to invite the abutters

to a discussion. The Board decided to schedule a special meeting on Oct. 6, 2003 at 7:30 PM to discuss the issues and proposed modifications, and invite the abutters to that meeting.

9. Continued Public Hearing – Padik View – Definitive Subdivision Plan – Wood St.

James Hanrahan, attorney, and Jerry Cushing, engineer, appeared before the Board. Mr. Hanrahan reviewed the history of the subdivision plan, noting that a preliminary subdivision plan had been submitted first. He stated the purpose of the subdivision plan is to get a zoning freeze for the property and the applicant doesn't intend to build it. He stated that they understand that the Board has to review it like any other plan, however. He stated that the lots will have on-site wells and septic systems.

Mr. Cushing addressed intersection sight distance, and showed a plan which indicated the amount of clearing that would be needed in order to achieve it. He stated there would be 445 feet from the west road entrance looking to the west. Ms. Rose asked if any shrubs or trees there now would remain, and Mr. Cushing replied no. He stated that sight distance would be the same looking east. Mr. Abate noted that some of the area is in Westborough, and questioned how the Town of Hopkinton could regulate clearing there. Mr. Coolidge stated that Westborough would have to agree to the clearing within the right of way.

Mr. Cushing stated that the other change to the plan is that there will be on-site private wells and septic systems, and they have removed the water line from Westborough shown on the plan previously. He stated that each lot would also have its own 15,000 gallon cistern for fire protection purposes, which would be fed from a well. He addressed a possible waiver request, noting that construction of a portion of the road will be on a grade of 25% or more, but that he doesn't think the grade is a natural condition, and therefore not subject to the regulation. He noted that he met on the site with David Glenn of Fay, Spofford & Thorndike (FST) and Ms. Lazarus to look at it, and it seems as though there was a fill situation for the current municipal transfer station from 2 to 4 feet in depth. He stated it drops off behind there, and it seems there was also a cut at the bottom of the slope of at least 1 ft. as well. He stated that the slope was probably 20% or less on average before being altered. Ms. Lazarus agreed that the natural grade had been altered and the original slope was most likely less than 25%.

Mr. Cushing addressed the comments raised by FST with regard to stormwater management, noting that they have modified the grades of swales so that during flooding all water would run to the detention basin. Ms. Duffy asked if there was still room on the lots for a building given the location of the swales, and Mr. Cushing replied yes. Mr. Herr asked about the amount of rain in a 100 year storm. Mr. Cushing stated it is 6 ½ inches of rain. He stated that a rip-rap apron was also added at the end of the discharge pipe at the detention pond. He stated they also provided the Stormwater Management Form and TSS removal would be 84% which meets the DEP requirement of 80%. He stated that more silt fence and hay bale barriers have been added to the Erosion and Sedimentation Control Plan.

Mr. Coolidge asked if the cisterns for fire protection had been discussed with the Fire Dept. Mr. Hanrahan replied no, but the Fire Dept. would have to approve the locations and designs of each.

Mrs. Pratt asked if there would be one or two means of egress to the site, and Mr. Coolidge noted that the loop road enters Wood St. twice. Mrs. Pratt stated there is a sight distance problem. She stated there should be a traffic light if there will be one entrance. She stated it is dangerous to put an entrance opposite the Pandolfino property.

The Board voted unanimously to close the public hearing. The Board moved and seconded to approve the definitive subdivision plan with the following conditions:

1. Prior to the Planning Board's endorsement of the Subdivision Plan, the Applicant shall execute an Agreement with the Board, that no lot depending on Padik Circle for their legal frontage shall be sold, or buildings or structures erected or placed on, or building permits issued with respect to any such lot, until:
 - a) The work on the ground necessary to adequately serve such lot has been completed in accordance with the contents of the Subdivision Plan and Profile of Padik Circle and with the Subdivision Rules and Regulations and that all other requirements of the Subdivision Rules and Regulations have been fully complied with; or
 - b) The Applicant has executed a contract with the Planning Board, accompanied by appropriate security to secure performance, to complete construction of Padik Circle in accordance with the Subdivision Rules and Regulations, on or before a date specified in the contract;
 - c) The Applicant has recorded in the Registry of Deeds (or Land Court) a certificate executed by the Planning Board that the above conditions with respect to any such lot have been performed by him or have been amended, modified, revoked, waived or released by the Planning Board.
2. After finding that it was in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law, the Planning Board waives strict compliance with the following provision of the Subdivision Rules and Regulations, in accordance with Section 81-R of the Subdivision Control Law and Section 7.1 of the Subdivision Rules and Regulations:
 - a. A stormwater report which does not include overall site hydrology of pre-development conditions, and the post-development analysis not including the future development of each individual subdivision lot (Sec. 8.4.3). Each lot will be individually designed and evaluated in the Site Plan Review process (Zoning Bylaw Article XX). Since the land is zoned Industrial and the manner of future development of each lot is unknown, it makes sense to review the stormwater management plan for each lot as it is developed. Condition #3 below will require that each lot conform to DEP Stormwater Management Guidelines. The stormwater management system shown on the Subdivision Plan is adequate to address runoff from the roadway.
3. Roadway and infrastructure construction shown on the Subdivision Plan shall be completed within two years from the start of construction or this approval shall be automatically rescinded unless such time is extended after public hearing by the Board at the request of the Applicant. If construction has not commenced within four years from the date of this approval, such approval shall be automatically rescinded.
4. The development of each lot is required to be reviewed and approved under the provisions of Zoning Bylaw Article XX, Site Plan Review, since they will be non-residential uses. The stormwater management system for each lot shall conform to the DEP Stormwater Management Guidelines.

5. An additional amount shall be added to the performance guarantee for this subdivision to cover potential remedial work required in the event that any element of the stormwater management system shown on the Plan does not function as intended.
6. There shall be a maximum of 5 building lots in the subdivision. This condition shall be written on the Plan prior to endorsement.
7. Street trees shall be planted in accordance with the Subdivision Rules & Regulations. The Planning Board encourages the Applicant to retain trees in the road right of way, if any. The Applicant shall consult with the Tree Warden with regard to species and location, prior to planting.
8. Tree stumps and building scrap materials shall be removed and shall not be buried on the site.
9. Street numbers for the new lots shall be shown on the Plan in accordance with the Subdivision Rules and Regulations prior to endorsement. The Applicant shall consult the Director of Municipal Inspections on the numbering system.
10. Erosion control measures to prevent siltation onto wetlands, neighboring properties and roads during construction shall be implemented. The erosion control plan and documentation submitted shall be implemented and followed during construction. During construction, if these plans are found to be inadequate by the Planning Board, a new erosion control plan shall be submitted to the Board for review and approval. In the event that erosion and sedimentation problems arise during construction, the Planning Board may require that all work cease until measures necessary to ensure prevention are implemented.
11. No building permits shall be issued or any construction in the subdivision allowed until approval for such work has been obtained from the Conservation Commission for areas affected by the Wetlands Protection Act and the Hopkinton Wetlands Protection Bylaw.
12. Drain easements shown on the Subdivision Plan shall be defined by metes and bounds, deeded to the Town, recorded at the Registry of Deeds (or Land Court) at the Applicant's expense, and copies furnished to the Town Clerk, Department of Public Works, and Planning Board.
13. Disturbed areas shall be loamed and seeded during construction as soon as possible.
14. The street name shall be approved by the Board of Selectmen prior to endorsement and recording of the Subdivision Plan. The street signs shall be erected when the road is paved.
15. A plan shall be submitted to the Board prior to construction showing the location of where earth will be stockpiled on site. No earth products shall be delivered to the site which are not for use on the property. No earth shall be stripped or excavated and removed from areas of the site unless for road, infrastructure, home or lawful accessory use construction. No earth processing operations shall occur on the site, unless earth products are to be combined and/or mixed for use on the property. All piles of stockpiled earth shall be stabilized with adequate dust and erosion controls. All piles of earth shall be removed from the subdivision upon completion of construction of the road and infrastructure. Any piles remaining after that time shall be solely in conjunction with an active permit for construction of sewage disposal system, building or lawful accessory use. Any violation of this provision may result in a stop work order or plan rescission.
16. During construction, streets shall be swept and catch basins sumps shall be cleaned regularly, at least twice a year.

17. The Applicant should be aware that Sec. 8.7.3 of the Subdivision Rules and Regulations states that no components of any private irrigation system shall be installed within the street right of way.
18. The Applicant should be aware that Sec. 8.4.8 of the Subdivision Rules and Regulations states that perimeter drains and cellar drains shall not be connected into manhole and catch basin structures, and in no case may such drains discharge into the street right of way.

Mrs. Pratt stated there should be a condition which requires that the industrial park be attractive like other ones, noting that it is at one of the entrances to the Town. Mr. Coolidge noted that since the land is zoned Industrial, development of each lot will require Site Plan approval, and planting could be addressed then.

The Board decided to add the following condition of approval:

19. Prior to the commencement of construction, the Applicant shall submit a Landscape Plan for the two subdivision road entrances, for Board review.

The Board voted 7 in favor of the motion to approve the definitive subdivision plan, with Mr. Herr abstaining.

10. Signs

The Board briefly discussed the issue of development signs at subdivisions and other locations and the need to be consistent over time with respect to permitting them.

11. Scenic Road Public Hearing – 1 Wilson St. – Rodenhiser

Joseph Regan, Tree Warden, joined the Board for the joint hearing. Bill Rodenhiser, applicant, appeared before the Board and the Tree Warden. Mr. Rodenhiser stated he received the notice of violation from the Board. He reviewed the history, noting that in May when he was getting ready to plant trees along East Main St. he spoke to Mike Shepard, Building Inspector, and Ms. Lazarus, who suggested that he talk to the DPW and the Tree Warden. He stated he spoke to Mr. Regan who had no problem with the plantings, and they talked about a dead tree that had been cut, and another pine tree on the corner. He stated that some women on Wilson St. wait for the bus at the corner and the tree was dying and dead branches falling so it could be a problem. He stated he had spent a lot of money on the landscaping at the corner and along East Main St. He stated he discussed with Mr. Regan removing the pine on the corner and he was told that a hearing would be needed and that he would schedule it. He stated the tree had nothing to do with the driveway discussed with Ms. Lazarus before. He stated the Conservation Commission approved a new driveway location for the new house but no trees were affected. He stated he thought he was dealing with the right public official (Tree Warden) and the tree was severely leaning. He stated that Mr. Regan didn't return his telephone calls. He stated that he cut the tree because he didn't want to wait any longer.

Mr. Coolidge reminded Mr. Rodenhiser that Ms. Lazarus wrote to him in June informing him that Wilson St. was a scenic road, when permits are required from the Planning Board, and enclosed an application form in case he needed one.

Mr. Regan stated he met with Mr. Rodenhiser, discussed the tree and the proposed planting. He stated the pine had a slight lean, dead branches at the bottom, but this is normal because it is woods grown. He stated it wasn't dying back at the top, was not rotten, and had no insects. He stated he has found a lot of hazardous trees in Town and this wasn't one of them. He stated he suggested that Mr. Rodenhiser wait because a contract to remove trees along streets was going out, and he would put the tree on the list and have one big hearing on them all. He stated it takes time, and that his wife did return Mr. Rodenhiser's calls. He stated the tree wasn't affecting the new plantings. He stated that he didn't remember that Wilson St. was a scenic road until later. He stated he thought he was doing Mr. Rodenhiser a favor and the tree was not a hazard. He stated the tree was just gone one Monday in August.

Mr. Rodenhiser stated he didn't receive any calls back from Mr. Regan.

Ms. Altamura noted that while there was some confusion, Mr. Rodenhiser knew that a public hearing held by someone was necessary before the tree could be cut, and that he knew there hadn't been a hearing before he cut the tree.

The Board discussed the fines levied and what course of action to take. Mr. Rodenhiser stated he tried to do everything right. He stated that his arborist contradicts the Tree Warden's opinion of the tree. He stated it was 14" in diameter and was dead. He stated he spent \$35,000 on the corner and he is trying to beautify the Town. Mr. Coolidge noted that it was being beautified because the house is for sale. Mr. Rodenhiser stated he has decided to live there.

Mr. Coolidge noted that Ms. Lazarus letter to Mr. Rodenhiser in June was clear about the fact that Wilson St. is a scenic road, and that a permit was required of the Planning Board, not the Tree Warden, and even though the Tree Warden didn't remember that it was a scenic road, Mr. Rodenhiser knew it. Ms. Altamura stated it doesn't matter who was to hold the hearing, no hearing was held and the tree was cut. Mr. Regan stated that Mr. Rodenhiser's arborist isn't certified. He admitted that he could have inadvertently misled Mr. Rodenhiser by not telling him about the scenic road requirements, but there was no hearing held by anyone.

Mr. Herr asked Mr. Rodenhiser if he had built houses before. Mr. Rodenhiser stated it is his second, and his first in Hopkinton.

Mr. Coolidge stated that Mr. Rodenhiser knew that a hearing and permit were required, but cut the tree anyway. Mr. Regan noted that if the tree was dead, he would have just told Mr. Rodenhiser to cut it down.

It was noted that the Board had levied a fine of \$300.00 in August and the Tree Warden recently levied a fine of \$500.00.

The Board voted unanimously to issue the scenic road permit to remove the tree (after the fact) with the following conditions:

1. The Scenic Road bylaw contains Criteria for Work Projects in sec. 160-6. Criterion C addresses compensatory action proposed for the action. The Applicant proposed no compensatory action. Section 160-7 of the bylaw states that "Whoever violates any

provision of this chapter or any conditions of any permit granted hereto shall be liable for a fine of not more than the maximum permitted by law for each citation for any violation and shall be required to restore any damage”. Therefore, the Board requires the deposit of \$300 into the Town’s Tree Planting Account so that a new tree can be planted as compensatory action and as restoration of the damage.

2. The outstanding fines owed the Town shall be paid within 10 days of this approval or the Planning Board will request that the Building Inspector/Director of Municipal Inspections cease and desist all construction work on the lot until paid.

Adjourned: 10:25 PM

Elaine C. Lazarus, Planning Director

Approved: November 3, 2003