

HOPKINTON PLANNING BOARD

Monday, April 12, 2004 7:30 PM

MINUTES

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PRESENT: John H. Coolidge, Chairman, Jaime Goncalves, Vice Chairman, Mark Abate, Pamela Duffy, Brian Herr, Tina Rose, Claire Wright

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

**1. 81-P Plan – 28 Ash St., 32 Ash St., 15 Fenton St. – Bronder & Gilligan**

William Brisson appeared before the Board. He stated that he will purchase the new lot at 15 Fenton St., which the plan will create by combining land from 28 and 32 Ash St. Ms. Rose asked if the lot will meet the lot frontage depth requirement in the Zoning Bylaw, and Mr. Brisson replied yes, noting that it is shown on the plan. The Board noted that the lot would meet the frontage requirement in the Residence A district, and voted unanimously to endorse the plan as not requiring approval under the subdivision control law.

**2. 81-P Plan – Fruit St./Saddle Hill Rd. – Rebel Hill LLC**

Dan McLaughlin, representing the owner and applicant, appeared before the Board. He described the four new building lots that would be created from property which is part of the Hopkinton Country Club. Ms. Duffy noted that lot A has extensive wetlands, and asked if there is room for a driveway on it. Mr. McLaughlin replied he thinks so, and the builder will have to file with the Conservation Commission. Ms. Duffy noted that in the center of the lots a portion of land would be retained by the Country Club that extends out to Fruit St. She asked about the future of that parcel. Mr. McLaughlin stated they have no plans for it.

Mary Pratt, 102 Fruit St., stated that there is very poor drainage in this section of Fruit St. and it is an icing problem in the winter. She stated that development on the lots could make it worse.

Mr. Coolidge noted that the owner could be creating a possible hardship in the future by selling off frontage lots. He noted that there are issues with this section of Fruit St., including drainage problems and excessive speeds. Mr. McLaughlin stated they have no plans to put a driveway to the country club in this location, and there would still be plenty of frontage on Saddle Hill Rd.

David Goldman, 20 Fruit St., stated that water comes off the hill in the winter onto the road there. He stated he knows the limits of approval-not-required plan reviews, but asked if there is a way that people who travel the road can be assured the drainage problem will be solved. He asked if a culvert under the road could be installed.

Nancy Goldman, 20 Fruit St., noted that Fruit St. is a designated scenic road and permits might be needed.

Mr. Coolidge suggested writing a letter to the DPW and Conservation Commission about the water problem and the new lots.

The Board voted unanimously to endorse the plan as not requiring approval under the subdivision control law and to send a letter to the DPW and Conservation Commission as discussed.

**3. Hopkinton Highlands II – 7 Summit Way**

Jeffrey Richards, landscape architect, and Brian Weiner, Toll Brothers, Inc., appeared before the Board. Mr. Richards described the location and shape of lot 7 on Summit Way (7 Summit Way) in the Hopkinton Highlands II subdivision, noting that the Building Inspector has determined that it does not meet the lot frontage depth requirement in the Zoning Bylaw, and the Planning Board has the ability to waive this requirement in Open Space and Landscape Preservation Development subdivisions. Ms. Rose asked if the lot conformed when the subdivision was approved because the previous Building Inspector interpreted the method of measurement differently. Mr. Richards stated it is possible. He noted that plans were checked by his firm, the Board's engineer, and others, and it wasn't noticed. Mr. Weiner noted that all of the lots in the area are under agreement so the property lines can't be changed.

Ms. Rose asked about sight distance at the Overlook Rd./Cedar St. Ext. intersection, noting that there have been discussions about grading it in accordance with the plan, but she noticed the area was recently landscaped with new plantings. She noted that a Stop sign is also needed. Mr. Weiner stated they will be doing the work soon, and removing the new landscaping.

Mr. Goncalves suggested transmitting information to developers when they are in the application stage about the method of measurement of the lot frontage depth requirement.

The Board voted unanimously to waive the lot frontage depth requirement for 7 Summit Way as requested.

**4. Public Hearing – Zoning Bylaw Amendments**

**A. Inclusionary Housing**

Mary Pratt, sponsor, stated she wanted to make sure that the articles drafted by Community Opportunities Group, Inc. that are in the new Housing Plan were submitted into the town meeting warrant. She stated that taxpayers subsidized the Executive Order 418 process, and the bylaw can be used immediately to create affordable housing. She stated that the bylaw is written better than a similar one she proposed a few years ago. She noted that it contains options for providing housing units, such as payment of funds to the Affordable Housing Trust Fund, and rehabilitating existing units.

Mr. Coolidge noted that a similar bylaw passed in Duxbury a few years ago, and there have been modifications to that bylaw. He noted that in its current form, it has not been approved by the Attorney General. He noted that the Town's consultant prepared the bylaws in the Plan for the Town to use as tools for discussion in the future, and he doesn't think the bylaw is ready to go through the town meeting process yet.

Ms. Rose questioned how the bylaw would apply to 81-P plans, where there is no review.

Ms. Wright asked how the bylaw is different than the one submitted before. Mrs. Pratt stated there were a few changes.

Ms. Lazarus noted that the Asst. Attorney General who approves bylaw changes spoke at a meeting she attended, and he said that he would approve inclusionary housing bylaws, but that sometimes it is in their application where problems can arise, depending on how the bylaw would work.

Mr. Coolidge stated that Ms. Altamura and he had asked Mrs. Pratt to be part of the process, and she chose not to, by refusing to go through the Zoning Advisory Committee with the proposal. He stated the problem is that it should be a cooperative group effort to get zoning changes through town meeting, which involves working with all parties that would be involved in it, but that didn't happen with this article. Mrs. Pratt stated that Ms. Altamura asked her to submit the older inclusionary housing proposal.

Mary Harrington, Chairman, Affordable Housing Task Force (AHTF), stated that in September, 2002 the Bd. of Selectmen appointed the AHTF, and about the same time the Town received the \$30,000 grant to prepare the Housing Plan. She stated that a Housing Plan was the missing piece in the plans the Town already had, and the final draft of the Plan was received last week. She stated she hopes the Planning Board will adopt the Housing Plan as part of the Master Plan, and it consists of a Plan and Guidebook for implementation. She stated there are several bylaw options contained in the guidebook, and several ideas and suggestions to use and implement housing plans and policies in the Town. She stated that the AHTF chose to go forward with two goals last year: 1) complete the Plan, and 2) work on and propose the Village Housing bylaw to town meeting. She stated that she feels the process of implementing zoning changes has been in place since 1987, when the first Town Planner was hired, has worked well. She described the purpose of the Zoning Advisory Committee and the process involved in bringing zoning changes to town meeting. She stated that at town meeting 2 or 3 years ago, there were several affordable housing related bylaws proposed, and only one passed. She stated they decided to take small rather than large steps and learn from that experience. She stated it doesn't mean that they won't propose these bylaws in the future, but for this year they wanted to concentrate on Village Housing. She stated the articles have not been brought to the AHTF for consideration or support. She asked that the Board request that the articles be deferred to the future.

Mr. Goncalves questioned the recommendations needed of the Planning Board for town meeting. Ms. Lazarus noted that the Board should recommend that town meeting either adopt or not adopt the bylaw.

Mrs. Harrington stated that the article as submitted is flawed because it doesn't designate a special permit granting authority (SPGA), and it can be either the Planning Board or Board of Appeals. Ms. Lazarus noted that the bylaw doesn't require a new special permit, so the process would be folded into existing approval processes for each type of development, so designation of a SPGA in the bylaw isn't necessary.

Mr. Coolidge stated there was controversy last time an inclusionary bylaw was proposed, and he felt that one should be proposed that the Board had worked on with the development community. He stated he doesn't want to propose something that will be adversarial.

Ms. Wright referred to the provision in the bylaw regarding the offering of land instead of units. She asked if there is available land that could be offered. Mrs. Harrington noted that a

developer would have to find some, and they would have to be committed to doing that. Ms. Wright asked if it would be mostly money that was paid into the Fund instead of units provided, as a practical matter. Ms. Duffy noted that rehabilitation of an existing house is also an option.

Mrs. Harrington stated the AHTF planned to go to town meeting with one article, then build on it in the future with other tools. Mr. Coolidge stated it would be beneficial to have 10% of the housing as affordable. Mrs. Harrington stated that Chapter 40B has been in effect since 1969, but only in the last few years has it been pushed. She stated that the state is losing workers because people can't afford to live here, and the State is concerned about this. She noted that all communities are facing the same problem.

Mr. Coolidge noted that both bylaws would create affordable housing, the issue is whether the Board wants to fight with developers at town meeting. Mrs. Harrington noted that Mrs. Pratt offered to withdraw the articles and this might be best, because if the Board votes a negative recommendation, it can't come back for two years.

Ms. Rose stated she believes that all articles should go through the Zoning Advisory Committee. Ms. Wright noted that the Town's official entity charged with providing affordable housing, the AHTF, is opposed to the article. Mr. Goncalves stated it would set up a fight with developers and would probably raise housing costs in the long run. He stated that it could make it more difficult to provide affordable housing in the future because of that.

Mr. Herr asked Mrs. Pratt if she will withdraw the article. Mrs. Pratt replied that she would. The Board voted 6 in favor with Mr. Coolidge abstaining to encourage Mrs. Pratt to withdraw the article at town meeting.

#### B. Affordable Accessory Dwelling Unit

Mrs. Pratt described the article, which would allow accessory apartments to be created within single family homes that would be affordable and count toward the Town's 40B inventory. She noted that the Town allows accessory apartments now for family members or tenants age 60 and over, and it works well. Mr. Coolidge questioned how the bylaw would work. Ms. Rose asked why the AHTF does not support the proposal.

Mrs. Harrington stated the AHTF just wanted to go with one article and focus on that, and didn't want to confuse people. The provisions of the bylaw were discussed, as well as options for homeowners in creating multi-family homes. Mr. Herr noted that the timing of the bylaw could be a political problem. Mr. Coolidge noted that the article addresses some of the problems raised last time a similar bylaw was proposed.

Mrs. Pratt described proposed changes before the state legislature with regard to how affordable ownership units would be counted.

Ms. Wright stated the Zoning Bylaw allows conversion of residential property to up to 4 rental units now. She stated she understands the need, but looking at it from the property owner's perspective, why would they do this when they can do the same thing with market rate rents? She stated it is really rent control and she has a problem with it. She stated that

rental properties are typically not maintained as well as owner occupied homes, and showed the Board photographs of properties in Town. She stated that this would open the door for a poorly maintained building.

Mr. Herr stated it is good to get tools to provide affordable housing, but thinks this will be doomed at town meeting.

Mrs. Harrington stated there is an accessory dwelling unit bylaw and a conversion bylaw which currently exist, and both are by special permit. She noted that the proposed bylaw would allow them by right. Ms. Lazarus noted that the bylaw would allow them by right in the residential districts and by special permit in the business districts.

Mrs. Pratt stated she will withdraw the articles.

Mr. Abate stated he doesn't want the Board to support the article if it won't be unanimous. The Board voted unanimously to encourage Mrs. Pratt to withdraw the article.

Mrs. Pratt expressed her displeasure at the Board's decisions and with the proposed Village Housing Bylaw.

C. West Main St. – Zoning Map Change – Industrial to Agricultural

It was noted that this hearing had been continued from March 8, 2004 while Ms. Lazarus attempted to contact the land owner. Ms. Lazarus reported that she had spoken to him earlier in the day and that he is opposed to the proposed change. The Board voted unanimously to move to dismiss the article at town meeting.

**5. Continued Public Hearing – Sudbury River Estates – Definitive Subdivision Plan**

Jose Martins, applicant, and Joe Marquedant Jr., surveyor, appeared before the Board. Mr. Marquedant stated they have made some modifications to the plan, including adding easements to the detention basins. He noted that Fay, Spofford & Thorndike (FST), the Board's engineer, had also asked that large plantings within the cul-de-sac island be replaced by small species, so he did that. He noted that a description of why waivers were requested was also submitted. He noted there have been recent developments with regard to screening of the McLellan and Grasso properties. He stated that there will be 18 white pines added adjacent to Grasso, and McLellan is concerned about flooding so they need to review the plans with them more. He stated that information was also submitted to the Board from Connorstone addressing the comments made by FST relative to drainage.

Ms. Rose referred to FST's comment about cuts within the detention basin, and that the answer provided by Connorstone isn't sufficient. Mr. Marquedant stated that some of the basins will be constructed wetlands, so when constructing them, they will dig lower, then add the correct materials to the bottom. He noted that even if it is below the water table, they will need that water there for the wetland plant growth. Ms. Lazarus suggested providing more information to FST about that.

Ms. Rose asked about the comment relative to the steepness of basins raised by FST. Mr. Marquedant stated the revised plan changes the grade to accommodate the comments, which were related to access to the basins. Ms. Wright asked if a homeowners association would

maintain the basins. Mr. Martins stated he has no problem with requiring an association to contribute toward maintenance, and if a condition of approval, he will do that. Mr. Herr asked if it would be part of each property deed. Mr. Martins replied it would. He stated he typically puts covenants on the lots that govern such things as house colors, etc., and this would be another item to add.

Ms. Wright asked the applicant to consider monolithic asphalt berm instead of cape cod berm, as it seems to stand up better to the snow plows. She asked what trees were proposed in the island. Mr. Marquedant replied that white pine and pin oak were proposed. Mr. Coolidge stated the Board tries to save existing trees if possible, and asked if there are any within the island area now that could be saved. Mr. Martins stated the problem is that they will be impacted during construction, noting that two inches of soil added around a tree will kill it in a few years. Ms. Wright suggested keeping trees in the island to maintain a tree canopy.

Peter Grasso, 50 Cedar St. Ext., stated that trees would be added adjacent to his property as indicated by the applicant. Mr. Marquedant showed a sketch of where the trees would be, noting there would be 18 in the open space and 4 on the Grasso property. Mr. Coolidge suggested a diversity of species instead of all one species.

Ms. Rose stated the DPW is going to put a Stop sign on Wedgewood Dr. at Cedar St. Ext. She noted that the water problem in Cedar St. Ext. discussed before is a long-time problem, according to the DPW. She stated that the existing homes are contributing to the problem, and the DPW has tried to use culverts to catch the water but it hasn't worked.

Mr. Herr asked if a larger bond for the subdivision will be needed to cover the Grasso landscaping. Mr. Martins stated there would be a separate agreement with the homeowner regarding the landscaping. Ms. Lazarus stated that whatever is on the plan and not completed when a performance guarantee amount is established, will have to be included.

Thomas Gaston, 71 Wedgewood Dr., asked if there was any way for the subdivision to pick up any of the Cedar St. Ext. drainage. He stated it now runs to the Sudbury River and turns into six inches of ice in the road in the winter. Mr. Marquedant stated that if it reaches the subdivision road it will be collected. Mr. Gaston asked if the road had been moved since it was discussed at the last meeting, and Mr. Marquedant replied no.

Ms. Wright referred to the special permit condition relating to stone walls being reused and reconstructed on site, and about the note on the plan which referred to it. Mr. Marquedant stated there won't be enough stones to use on all of the lots. Mr. Goncalves asked about using them around the islands instead. Mr. Marquedant stated they could do that, or also use them behind the walking trail along Hubley Rd. He stated there will be about 600 ft. of stone wall to be disturbed on the site. Mr. Goncalves suggested using them around the islands and at the entrances of the roads.

Ms. Rose referred to the comments on the cisterns by the Fire Department. Mr. Marquedant stated there will be two cisterns as required by the Subdivision Rules & Regulations.

Ms. Wright asked about the disposition of the open space. Mr. Martins stated it could be conveyed to the Town if it wants it, or to a local land trust.

Ms. Wright asked if the detention basin shape had been changed as requested by the Board. Mr. Marquedant stated it had not been changed yet. He stated that FST had concerns about the 100 year storm event and if they need to increase the size, they only want to revise them once. He stated that the shape would be changed.

Ms. Rose asked if stockpile areas were shown on the plan, and Mr. Marquedant replied they are shown on the revised plan.

Ms. Duffy noted that a permit from the Corps of Engineers had been requested, and asked what would happen if they say no. Mr. Marquedant stated the plan would be redesigned.

It was noted that the applicant needed more time to address FST's comments on the plan. The Board voted unanimously to continue the public hearing to April 26, 2004 at 9:15 PM.

#### **6. Other Business**

The Board voted unanimously to approve the Minutes of March 22, 2004. The Board voted unanimously to authorize payment of outstanding bills.

The Board reviewed a draft letter prepared by Ms. Lazarus following up on the review of the revised plans for the Material Recovery and Recycling Facility proposed by E. L. Harvey & Sons on Wood St. at the March 23, 2004 meeting. The Board decided to send the letter as written.

#### **7. Deerfield Estates**

Ms. Lazarus reported that despite several requests, the performance guarantee for Deerfield Estates has not been received and work is continuing. She noted that this is in violation of the Board's Site Plan approval of the Senior Housing Development. The Board voted unanimously to order all work on the site to cease and desist until the performance guarantee is received.

#### **8. Other Business**

Mr. Abate stated he is resigning as the Board's representative to the Downtown Revitalization Committee, because of time constraints. He nominated Ms. Wright to serve as the Board's representative. Ms. Wright stated she has been attending the meetings anyway, and is willing to do it. The Board voted unanimously to appoint Ms. Wright as its representative to the Downtown Revitalization Committee.

Mr. Coolidge noted that Ms. Lazarus is eligible for a step increase, and a performance evaluation needs to be done. He asked Board members to forward any comments to him so they can be incorporated.

Adjourned: 9:50 PM

Elaine C. Lazarus, Planning Director

**Approved: May 10, 2004**