

HOPKINTON PLANNING BOARD

Monday, March 13, 2006 7:30 PM
Hopkinton Town Hall

MINUTES

PRESENT: Brian Herr, Vice Chairman, Sandy K. Altamura, John H. Coolidge, Jaime Goncalves, Claire Wright

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

1. Public Hearing – Zoning Bylaw and Zoning Map Amendments

The Board discussed the public hearing procedure and process. Mr. Herr listed the articles that are the subject of the public hearing.

A. Business District Dimensional Requirements

Ms. Lazarus briefly described the article, which would modify some of the dimensional requirements in the Business district.

Scott Richardson, Downtown Revitalization Committee (DRC), stated the Committee proposed the changes to increase the potential for development in downtown and to make available certain lots that may not now be economically feasible to develop or redevelop. He stated the intent is to improve the fabric of downtown.

Joe Strazzulla, 219 Pond St., stated that he owns commercial properties in the Business district, and there is a need for the proposed changes to make a denser downtown. He stated there is a very small part of the Town zoned for business use, and the Town's growing population wants to do business and work here. He stated there is a lot of demand for office and retail space. He stated that converting old homes is not necessarily viable. He stated that the Downtown Revitalization Committee is correct in proposing the changes, as some of the current lots are ill-conceived and awkward with the current setback requirements. He stated he strongly supports the changes, noting that downtown has the infrastructure to handle increased commercial activity, where other parts of town do not.

Anne Mattina, 1 Claflin St., stated she lives in the Business district and is concerned because there are no specifics. She stated that downtown should be revitalized, but there are no specifics as to where these lots and businesses are. She stated she is concerned with the 0 ft. setback between buildings and asked what the future will look like. She asked what the Planning Board wants to see there, and there are a lot of old houses in the Business district.

Mr. Richardson stated there are no specific lots or businesses that are being targeted, they just want to encourage investment in downtown and provide opportunities. Ms. Mattina asked where these lots are. Mr. Richardson stated that no specific properties have been

singled out, and they want to offer better opportunities for new construction and reconstruction.

Charles Miller, 185 Pond St., stated that business likes a plan and a strategy. He stated that this change will encourage and motivate them.

Robert Falcione, 12 Claflin Pl., stated he is not hearing anything. He stated there is more to this and whoever is behind it or targeted by it should come out of the shadows. He stated the Town doesn't need a denser downtown. He stated that next year the DRC plans to decrease the amount of parking and there is a parking problem now. He stated there is plenty of office space and lots of empty buildings on South St.

Jean Madigan, 9 Maple St., asked Mr. Strazzulla to describe how the change would benefit his properties.

Mr. Strazzulla stated he owns the old high school and the adjacent property. He stated they are very old buildings and are very hard to adapt to the needs of today's tenants. He stated his properties have business/commercial abutters and they don't want the separation between buildings, noting that this also results in less flexibility. He stated there will be greater setbacks required from residential abutters. He stated the biggest need in the downtown is for office space, since competing communities draw the retail businesses. He stated the market dictates what will happen as far as who locates where. He stated there are too many restrictions on properties now, and changes will not happen all at once but over a long time period.

Mr. Herr noted that over the last few years, all of the surveys of Town residents have pointed to downtown revitalization as something that is requested and needed. He noted that the DRC was appointed to study and implement measures to make that happen.

B. Business District – Mixed Use Buildings

Ms. Lazarus briefly described the article, which would allow mixed use buildings with retail on the first floor and either office or residences above, by right in the Business District, plus establish a parking requirement of 1 space per bedroom for the residential component of the buildings.

Mr. Richardson stated the DRC proposed the change in order to increase the vitality of the downtown, which would happen if more people were living there.

Mr. Falcione stated that no downtown business people have asked for help and these articles appear to be addressed to benefit specific people.

Mr. Strazzulla disagreed, stating that businesses are asking, and he is representing his tenants in this regard. He stated there is a desperate need for commercial space and people want to be in the center of Town.

A resident asked if anything can be done about traffic in downtown. He stated the traffic is tough during certain hours of the day. He asked if any studies had been done.

Mr. Richardson stated that any proposed development over a certain size would have to prepare traffic studies and mitigate any problems.

Eric Sonnett, 60 Teresa Rd., stated that the Board of Selectmen recently commissioned a traffic study by Maguire Group, which will present the findings to the Board on March 28. He stated that the study recommends some changes to the Rt. 85/Rt. 135 intersection.

Mary Pratt, 102 Fruit St., stated that traffic will be in the downtown no matter what, and it is only an issue in the morning and evening peak hours. She stated that not much can be done about it.

Mr. Miller stated the Town can't base its decisions on traffic alone. He suggested looking at other towns to see what they are doing and what works or doesn't work.

A resident asked if there has been a recent survey of people to see if they still want downtown revitalization. She stated the Town doesn't need more businesses. She stated that she doesn't want to see people put out of their homes.

Ms. Madigan asked what the parking requirements are for retail and office space. Ms. Lazarus stated the requirement is 3 per 1,000 sq. ft. for office and 4 per 1,000 sq. ft. for retail. The question was asked if all of the spaces have to be on site, and Ms. Lazarus replied yes.

C. Business District – Off-Street Parking Facility

Ms. Lazarus described the article, which would add “off-street parking facility” as a use allowed by special permit in the Business district, noting that the special permit would be issued by the Planning Board. She stated the issue arose during a discussion of downtown issues by the Zoning Advisory Committee (ZAC) and the DRC when it was noticed that such a use would not be allowed, and it may make sense at some time to have a separate lot with parking on it. She stated that it is not directed at any specific location, individual or project.

Ms. Metella asked why it is needed, stated there is no need for more parking.

Mr. Strazzulla stated that parking could be provided on the same property as a building, either on the surface or underground within a building, but noted that a structured parking garage is not an allowed use. In response to a question, Ms. Lazarus stated that there was nothing in the bylaw to prevent the construction of a parking garage, as long as it was an accessory use to a building on the lot.

Ms. Madigan asked why the Planning Board would issue the special permit instead of the Board of Appeals. Ms. Lazarus replied that since the Planning Board also would be reviewing the Site Plan, it was felt that both could occur at the same time, rather than having the applicant go to two boards with the same plan.

D. Business District Numbering

Ms. Lazarus noted that the Town Clerk had submitted the article which would re-number a section of the Business District, which now skips a number.

E. Landscaping Businesses

Ms. Lazarus described the article, which would establish a definition of landscaping businesses and storage/staging facility and allow them by special permit in the Agricultural and Residence B districts and by right in the Industrial districts.

Mike Shepard, Director of Municipal Inspections, stated the he had proposed the change. He stated that the problem is that these businesses were started by residents and have grown and employ lots of people and they have equipment. He stated that the zoning doesn't provide any place for them. He stated he wanted to provide a place and a mechanism for the businesses to locate there, after a public hearing at which time the Board of Appeals could impose conditions on hours of operation, location of equipment, etc. He stated there is merit to the proposed change to the language that would require that the property be owner occupied. He noted that the businesses operate seasonally and people arrive in the morning and leave, then come back in the evening and leave. He stated that only administrative business activities would occur on the property, such as billing. He stated that many residents use and need the services, and the Town should provide a place for them.

Mr. Goncalves asked if tree services would be included, and it was stated that they would not.

A resident of Hopkins Rd. asked if the resident would live on the property, and Mr. Shepard replied that they should. She asked if people want these businesses in the neighborhoods. She stated she lived next to one for 10 years and they do operate during the day and on weekends too. She stated that they have plowing services in the winter, so it is not seasonal. She stated that it is a lot for a neighborhood. She asked if there will be a weight limit on the trucks, noting that in her case, there was a flatbed truck with bulldozers daily on the property at 7:00 am. She stated the Town needs the businesses, but she doesn't want them to be all around. She asked that this issue be looked at further.

Mr. Herr noted that the special permit process with the ZBA would address the concerns of neighbors and the onus is on the abutters to go to the Board and express their concerns at the hearing, and they will be dealt with.

Ms. Altamura stated she sympathizes with the residents, noting that it could be a nightmare for them. She stated there should be more restrictions on the businesses, like a maximum of one truck stored outside, for instance. She stated they can't be sure that the ZBA will sympathize with the neighbors. She stated she is opposed to the article.

Ms. Wright noted that the businesses are already there.

Ken Kauzens, 249 Lumber St., stated that the article creates the permit procedure and a process for people to apply to locate the business. He stated there is no guarantee that people would get the permit.

Andre Griben, 6 Winter St., asked if it would be allowed in the Residence Lake Front district, referring to a reference to the district in the article. Ms. Lazarus stated that the change

proposed to that district would specifically not permit it, as that section refers back to another district where the language would be changed.

David Goldman, 20 Fruit St., stated there is already an hours of operation bylaw.

Ron Roux, President, Chamber of Commerce, stated the reason why the change is proposed is so the Zoning Enforcement Officer has something to work with, and it is appropriate.

A resident of Elm St. stated he likes the idea of allowing the businesses, but not in residential areas. He stated that if the article is adopted, the ZBA should notify people of the hearing who are more than 300 feet away.

Ms. Wright stated that the process works in a certain, standard way, and people should find a way to participate. She stated that if people can't attend, they can write a letter. She stated she thinks there have been a lot of complaints and problems with the landscaping business issue.

The resident of Elm St. stated they shouldn't be located in residential areas, because of the noise and activity.

Wayne Davies, 3 Stoney Brook Rd., recommended that the distance for determining who gets notified not be changed, noting that it would be an administrative burden on the Board of Appeals to have different procedures for different applications. He stated it is best to have a uniform process.

F. Water Resources Protection Overlay District Map

Ms. Lazarus described the article, which would modify the boundaries of the Water Resources Protection Overlay District (WRPOD) to be concurrent with zones 1, 2, 3, A, B, & C of public drinking water supplies. She noted that overall, the area covered by the district would increase in area.

Eric Sonnett, a member of the Board of Selectmen who also serve as Water & Sewer Commissioners, stated that the reason for the change is that the current WRPOD is inadequate to protect the water supply. He stated that it is illegal in its current configuration. Mr. Sonnett showed a map of the current boundaries, stating that when the area was determined, those who were involved did not have the benefit of scientific analysis, which was too costly at that time. He stated they took the high points and connected them to form the district. He stated that since then, the Town has spent more than \$600,000 on the Comprehensive Wastewater Management Plan and a water study. He stated that the analysis performed during this process gave a scientific definition of the areas that affect the water supply. He stated that the zones are delineated by the State (1, 2 & 3 for wells and A, B & C for surface water supplies). He described the zone 1, which is a 400 ft. radius around the well. He stated that the zone 2 is identified as an area where water would be drawn from if the wells pumped 24 hours a day for 180 days with no rain. He stated that the zone 3 is defined by topography, where rain that falls could flow to the well. He stated that the state has approved the zones 1, 2 and 3 for all the town's wells. He referred to *Lorden v. Pepperell*, a case where the court ruled that the district was invalid, illegal and arbitrary. He

stated that in this case the burden of proof was placed on the Town, where people were trying to stop a development. He stated that they have looked at the boundaries and found that a lot of the town that should be included is not, where the water flows to the Ashland well. He described the new district boundaries. He stated that the area includes well H2, the new well on the Town's Fruit St. property and the existing wells. He stated that if new wells are added, the district boundaries would be increased. He stated that the change protects the Town from a challenge to the boundaries.

Ms. Altamura asked about another new well off Fruit St. near Roosevelt Farms. Mr. Sonnett stated that when the Town searched for water in the 1980's and 1990's, many landowners would not let the Town search on their property, but Jim Pyne did. He stated there were 3 well sites that were looked at: 1) a gravel wash well; 2) well H2; and 3) well H7, on both the Pyne & Generazio properties. He stated that after study, it was learned that the gravel wash well was a good backup well, and the other two were also high yield. He stated that an engineer in 2000 recommended looking at H2 and H7. He stated that all of the H2 land was located on the Pyne property, where the H7 land was split by two owners. He stated that H7 was also close to Whitehall Brook, which caused problems because it would be impacted. He stated that for those reasons, the Town focused on H2. He stated that since 2000, the State is more stringent on the evaluation of impacts. He stated that the Town bought the zone 1 for H2 but not H7. He stated there were also recharge and wetland considerations with respect to H7. He stated the Town abandoned H7, as it wouldn't get permitted because the aquifer couldn't be recharged.

2. Continued Public Hearing – Sunshine Preschool – 1 Briarcliff Dr. – Amendment to Site Plan Review Conditions

The Board voted to continue the public hearing to 9:15 PM.

3. Public Hearing – Zoning Bylaw and Zoning Map Amendments

The hearing on the Water Resources Protection Overlay District map resumed.

Ms. Altamura stated she doesn't understand why the Town can't protect the future supply, even if it can't be used now.

Mr. Griben asked why the map shown is different than a map of the current WRPOD prepared in the past by EarthTech. Ms. Lazarus stated that the map displayed by Mr. Sonnett accurately represents the current WRPOD boundary.

Nancy Peters, 258 Wood St., referred to the Pepperell case, and stated that Board members should read it. She stated that after reading it, she is trying to understand why it is being used as an example. She stated that at a previous meeting Town Counsel stated that the case could be looked at, but not that it should dictate what Hopkinton does. She stated that the case referred to a WRPOD that tried to eliminate residential development, and that is not the case here. She stated she feels that the current district is appropriate and defines what needs to be defined. She stated that it can't be used to make the case to say there will be a challenge to the boundaries. She stated the case isn't relevant.

Carol DeVeuve, 47 Chamberlain St., showed the Board a MassGIS map indicating the aquifer in the Fruit St. area, noting that the new map cuts through the aquifer so it does not adequately cover it. She stated the existing map reflects the sub-basin line and the Fruit St. aquifer is considered a sole source aquifer. She stated the district should include H7. She stated that although the Town does not own the entire 400 ft. radius, the adjacent property has deed restrictions that protect the abutting property. She read from correspondence which stated that certain changes in the area would require a re-delineation of the H2 zone 2. She stated that testing has indicated there is a hydrological connection between the Washington Lane subdivision (Hopkinton Meadow) and the town wells. She stated that the zone 2 of the Howe St. wells in Ashland is smaller than its zone 1, and the zone 3 includes the entire sub-basin. She stated that the same should be considered for Hopkinton's wells at Fruit St. She stated that the Town has purchased the Alprilla Farm well and that will not be protected by this district. She stated that the Lumber St. well is not included either. She stated that different science is being used for the Ashland and Hopkinton wells.

Jeff Furber, 232 Wood St., submitted a petition to the Board. He stated that over 200 people signed the petition which advocates keeping the boundaries of the WRPOD the same.

Kevin Kohrt, 35 Winter St., asked what existing laws are being broken with respect to the current district.

Mr. Sonnett read from a Jan. 27, 2005 memo from Town Counsel describing a court case, *Lorden v. Pepperell*, which he stated indicates that the WRPOD boundary is illegal.

Mr. Davies stated that he is a member of the Board of Appeals, which takes no position on this article. He stated that as an attorney, he believes that the zoning bylaws which are passed at town meeting are presumed valid. He stated it is dangerous to interpret a court case which interprets another town's zoning and apply it to Hopkinton. He stated this is not appropriate. He stated that Mr. Sonnett's statement that the bylaw is invalid is improper. He stated the Town's bylaw was adopted by town meeting and accepted by the Attorney General, and until or unless it is overturned, the bylaws deserve a presumption of validity.

Muriel Kramer, 39 North St., stated that contrary to what Mr. Sonnett stated earlier, the Town's bylaws put the burden of proof on the applicant, with respect to issues with the boundary location.

Mr. Goncalves stated that the map that Ms. DeVeuve submitted shows an area outlined in pink, which is a potentially productive aquifer (PPA), medium and high yield. He noted this is typically an area of sandy soils. He stated that a zone 2 as described is an area of contribution to drinking water wells. He stated that if the Town wants to protect an aquifer, it wants to protect the PPA. He stated if the Town wants to protect the zone 2 where the wells actually draw from, it could do that. He stated he believes the Town should do both.

The Board voted unanimously to continue the public hearing to March 27, 2006 at 8:45 PM.

4. Susan Tordella – MetroWest Transportation Management Association

Susan Tordella, Director of the MetroWest Transportation Management Association (TMA), stated they are a member-based organization, and some of the members are required to join. She stated that EMC Corp. is a member based in Hopkinton. She stated that they can have up to 30,000 employees participating. Mr. Herr asked what the mission of the TMA is. Ms. Tordella stated their mission is to reduce traffic congestion and improve air quality. She stated when a company wants to build a facility in a community, the permitting board can require that the business join the TMA. She stated it is good for the employee. In response to a question, she stated that the annual cost to large companies like EMC and Bose is \$5,000 per year. Ms. Wright asked which communities have required companies to join. She stated that Framingham has done that. She stated that it isn't a law that the communities require the companies join, it would be a condition of a special permit. She stated the Towns agree to consider doing it, and that is all that they ask. She stated that if a company has more than 250 employees, it has to fill out State forms that encourage participation in such programs.

Mr. Herr asked if any of the companies had challenged the condition requiring them to join, and Ms. Tordella replied no. She stated the companies realize that it is a benefit, and she asked the Planning Board to consider this in the future.

Mrs. Pratt stated that the Metropolitan Planning Organization (MPO) puts money into TMA's, and is considered part of the statewide transportation demand management program. She stated that membership should be a condition of permits.

Mr. Falcione asked if the company employees are required to participate, and Ms. Tordella replied no, they are encouraged to. She noted that incentives are offered to the employees.

5. Continued Public Hearing – Sunshine Preschool – 1 Briarcliff Dr. – Amendment to Site Plan Approval

Mr. Herr noted that there are 5 members of the Board present, enough to vote on the application, but a sixth was at the original hearing and is eligible to vote. He asked if the applicant would prefer to continue the hearing to another date when all six can be present. Christine Martin, applicant, asked for a moment to consider that, and left the room.

6. Administrative Business

The Board voted unanimously to approve the payment of outstanding bills.

7. Continued Public Hearing – Sunshine Preschool – 1 Briarcliff Dr. – Amendment to Site Plan Approval

Ms. Martin returned and stated she would like to continue the public hearing. The Board voted unanimously to continue the public hearing to Monday, April 10, 2006 at 9:15 PM.

8. Benson Rd. Property – Wayne Comeau

Wayne Comeau, 24 Cedar St., and Doug Resnick, attorney, appeared before the Board. Mr. Resnick stated the Board recently disapproved a preliminary subdivision plan submitted by the Comeaus for land at the end of Benson Rd. He stated that the back of the property is part of a wetland corridor that runs north-south and is important. He described the history of the process to date. He stated that after the denial, they started a dialogue with Dave Goldman of the Hopkinton Area Land Trust (HALT), and would like to talk about a similar two-lot subdivision

which would create one house lot and one lot for conveyance to HALT. He stated the owner could get a tax credit for the donation, and the subdivision would have a low density.

Mr. Goldman stated he looked at the property and spoke to the HALT board, which was favorable. He stated the property has strategic importance because there are 30 to 40 acres nearby that could be looked at in the future, including the Umina, Cordner, and Stevens properties. He stated the conveyance to HALT would provide a piece to start with and continue their goal of providing walking trails around town. He stated that if they receive the ok here, they would start negotiating with the abutters. He stated that an open space corridor would result.

Ms. Altamura asked about the length of the driveway. Mr. Resnick stated it scales at about 150 ft. He stated they would request waivers so that the cul-de-sac would not be constructed. Mr. Coolidge stated he would vote for it, as it isn't often that someone will donate 50% of the lots as open space. Mr. Resnick stated that the gift can't be a condition of the permit, but they would state to the Board that they would do it. Ms. Altamura expressed concern that something could happen to the owner and the donation wouldn't happen. She suggested giving it to HALT before submitting the application. Mr. Goldman stated that wouldn't work to create the appraised value needed for the tax benefit. Ms. Altamura stated that there have been instances when there have been problems with this type of thing before. Mr. Goldman stated there would be a binding agreement with HALT and deed held in escrow. The consensus of the Board was that this would be acceptable. Mr. Herr stated he would be supportive.

9. FY07 Budget

The Board reviewed a memo from the Appropriations Committee requesting a reduction of \$2,576.19 from the Planning Board's requested FY07 budget. The Board voted unanimously to reduce the Other Purchased Services in the Expense line item accordingly.

10. Administrative Business

The Board voted unanimously to approve the Minutes of February 27, 2006. The Board voted unanimously to approve the Minutes of the February 13, 2006 regular session. The Board voted unanimously to approve the Minutes of the February 13, 2006 executive session, stating that they would remain unreleased at this time.

Adjourned: 9:50 PM

Elaine C. Lazarus, Planning Director

Approved: March 27, 2006