

Hopkinton Planning Board
Minutes
January 11, 2005

Vice Chairman Timothy Britain opened the Hopkinton Planning Board public hearing of Tuesday, January 11, 2005, at 7:00 PM in the Town Hall. Members present: Jane Bradstreet, Bethann McCarthy, Michael Wilkey, Clarke Kidder, Celeste Hemingson, Chairman Bruce Ellsworth and Edwin Taylor.

I. Review of the Minutes of December 14, 2004.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to accept the minutes of December 14, 2004 as amended. Motion carried in the affirmative.

II. Public Hearing concerning the following proposed amendment to the Hopkinton Zoning Ordinance:

- To amend the Hopkinton Zoning Ordinance to include a **Lighting Ordinance** as a new Section XIX. The purpose and intent of the Lighting Ordinance is to recognize the benefits of outdoor lighting and provide guidelines for its installation so as to help maintain and compliment the character of Hopkinton.

The addition of the Lighting Ordinance will require changing the numerical sequence of all remaining sections of the Zoning Ordinance.

Mr. Taylor explained the intent of the Ordinance to focus on nonresidential lighting conditions and to provide criteria for its installation.

Mrs. McCarthy reviewed suggested changes to the proposed ordinance. Following review of the recommended changes, the Board made revisions to the draft ordinance. See attached copy. A final public hearing will be held on Tuesday, January 25, 2005, beginning at 7 PM in the Town Hall.

III. Conceptual Consultations—There were no conceptual consultations.

IV. Applications—

#2004-19 Kelly & Dan Luce—Application for Site Plan Review approval to convert property located at 220 Burnham Intervale Road in the M-1 (industrial) district from multiple commercial uses to a multi-family residence having a total of three residential units was not reviewed as the Applicant was denied by the Zoning Board of Adjustment approval for the proposed use.

Chairman Ellsworth joined the Board for the remainder of the meeting.

#2004-21 Karen Ezen & Gary Pond—Dave Collier of Richard Bartlett and Associates addressed the Planning Board on behalf of Ms. Ezen and Mr. Pond to request approval of a two (2) lot subdivision of property located at 168 Tamarack Road in the R-4 (residential/agricultural) district, shown on Tax Map 211 as Lot 13.

Mr. Collier addressed the Board advising of a letter that he had received from Gove Environmental Services concerning the fact that there are no wetlands on the property. Mr. Collier then reviewed the subdivision plan showing the 420-foot flowage easement by the U.S. Army Corps of Engineers.

Mr. Taylor noted that the location of the proposed leach field appears to overlap that of the well radius. In response, Mr. Collier stated that he would revise the plans to correct the locations.

Mr. Collier then advised of the point of the Class 5 and Class 6 portions of Tamarack Road. The change in classification is at the flood control gate along Tamarack Road. The entire frontage of the property is located along the Class 5 portion of the road. Mr. Britain requested that the delineation between the Class 5 and Class 6 portions of the road be shown on the plan. Mr. Collier agreed.

In reviewing the subdivision plan Mrs. McCarthy questioned whether the flowage easement would hinder the owner's ability to construct a residence on the new lot. The flowage easement covers a large portion of the new lot. In response, Mr. Collier explained the possible locations in which a residence could be constructed without encroaching into the flowage easement.

Mrs. Hemingson, seconded by Chairman Ellsworth, moved to accept Application #2004-21 for consideration. Motion carried unanimously (Bradstreet, McCarthy, Wilkey, Kidder, Hemingson, Ellsworth, Taylor, and Britain).

Park Ranger Brett Clark of the U.S. Army Corps of Engineers addressed the Board reiterating the fact that no habitable structures, fill or excavating can occur within the 420-foot flowage easement. Mr. Clark stated that in reviewing the Army Corps maps with that of Mr. Collier's subdivision plan it appears that the location of the flowage easement is correctly shown. In response, Mr. Collier stated that he was able to locate a 26' x 40' residence, a well and septic system on that portion of the property outside of the flowage easement.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to approve Application #2004-21 with the following conditions:

- 1) The subdivision plan shall be revised to show the boundary location between the Class 5 and Class 6 portions of the road.
- 2) The subdivision plan shall be revised to show a clear distinction of the flowage easement, including a note on the plan providing an explanation of the easement.
- 3) The Applicant is to obtain all necessary permits from the NHDES.

Motion carried unanimously (Bradstreet, McCarthy, Wilkey, Kidder, Hemingson, Ellsworth, Taylor, and Britain).

#2004-22 Larry Hilton, Prototek Sheetmetal Fabrication, Inc.—Mr. Hilton addressed the Board to request Site Plan Review approval to operate a manufacturing, assembly, and fabricating business at property currently owned by Excalibur Shelving Systems, Inc., located at 244 Burnham Intervale Road in the M-1 (industrial) district, shown on Tax Map 220 as Lot 24.

Vice Chairman Britain referred to the minutes of the Zoning Board of Adjustment meeting in which the 1999 approved site plan was presented to the Board showing 70 plus employee parking spaces based on the size of the building. At the time, the Planning Board had agreed that Excalibur would only have to construct the parking spaces as needed. This was to avoid more parking than was actually necessary to the operation of the business. Mr. Kidder referenced Section 6.1 of the Zoning Ordinance which allows the Planning Board the authority to grant waivers from the parking requirements.

Vice Chairman Britain further reviewed the minutes of the Zoning Board of Adjustment meeting that explained the anticipated traffic, number of employees and hours of operation as follows: "Prototek manufactures and assembles small parts made from sheet metal. The business currently has two (2) tractor trailer deliveries a week of

sheet metal and anticipates at some point in the future of having as many as one (1) tractor trailer load delivered daily. Prototek currently operates a light van and pick-up truck for their daily deliveries to customers and vendors and receives daily deliveries and pick-ups from UPS. Presently, the company employs 25 people and anticipates this number to increase to as many as 70 people as they expand. The hours of operation are 7 AM to 4PM, five days per week. Occasionally, there is a need to operate on Saturdays from 7:30 AM to 12 Noon. They anticipate, at some point in the future, operating 24 hours a day when they are at peak capacity with multiple shifts.”

William Donoghue of Excalibur Shelving Systems, Inc. addressed the Board estimating that in 1999 Excalibur employed approximately 40 employees. Mr. Donoghue believed that the traffic anticipated from Prototek would be much less than the amount of traffic created by Excalibur. In comparison to Prototek’s proposal to have one trailer trip per day Excalibur had ten trailer trips per day.

When questioned about the noise decibels for the business. Mr. Hilton stated that when the noise was measured through the wall of the building it was measured at 75 decibels. Mr. Hilton went on to explain that during the summer in the evening hours when the doors may be open there may be certain machines that cannot operate due to the noise level.

Mr. Wilkey discussed whether there is a need for additional safety lighting for employees that are leaving the facility during the evening hours. In response, Mr. Hilton believed that the lighting is more than sufficient, noting that walkways are lit during evening hours.

Mrs. Hemingson, seconded by Mr. Wilkey, to accept the application for consideration. Motion carried unanimously (Bradstreet, McCarthy, Wilkey, Kidder, Hemingson, Ellsworth, Taylor, and Britain).

Dawn Baron of Burnham Intervale Road expressed concern with the potential noise created if during the summer months the doors to the building are open. In response, Mr. Hilton stated that there will be a plan in place concerning the machines that may be operated during the evening hours in the summer.

Louise Carr of Burnham Intervale Road discussed the poor condition of Burnham Intervale Road and the need for improvements. In response, Vice Chairman Britain believed the condition of the road would only be relevant if the Planning Board

were approving a subdivision creating a new use; instead, what is before the Board is a manufactured use that is consistent with what previously took place in the existing building.

Sue Williams of Kearsarge Avenue questioned the driving route that the trucks would travel to Burnham Intervale Road. In response, Mr. Hilton assumed that the trucks would come from exit 6 off I-89.

Mr. Wilkey, seconded by Mrs. McCarthy, moved to approve Application #2004-22 with the following condition:

- The Applicant shall construct five (5) additional parking spaces than that of the total number of employees that are working per shift. It is understood the construction of the additional parking spaces would occur during the spring.

Motion carried unanimously (Bradstreet, McCarthy, Wilkey, Kidder, Hemingson, Ellsworth, Taylor, and Britain).

#2004-23 Theodore Kupper, P.E., Provan & Lorber, Inc.—Attorney Maria Doldor of Herbert and Uchida Law Offices addressed the Planning Board representing A & P Investments, LLC for approval of a six (6) lot residential subdivision to be known as Granite Valley. The property is located on the east side of Kearsarge Avenue (Warner Town Line) in the R-4 (residential/agricultural) district, shown on Tax Map 223 as Lot 2. Attorney Doldor provided a brief overview of the proposed subdivision, explaining that there is an existing farmhouse on one lot in which Mr. Persechino, owner of the property, will reside in with his family. The remaining proposed lots range from 3.12 acres to 5.12 acres with every lot exceeding the minimum requirement of 120,000 square feet for the R-4 district. The six (6) houses will be served by private wells and septic systems. The total size of the parcel is 23-acres with 21-acres of designated upland. The lot in question borders a lot in the Town of Warner that is also owned by A & P Investments, LLC.

Chairman Ellsworth questioned whether there is a proposed subdivision for the property within the Town of Warner. In response, Attorney Doldor advised that the Applicant had met with the Town of Warner to conceptually discuss residential subdivisions of the property. As a result of the meeting, A & P Investments, LLC has withdrawn the proposed subdivision. Attorney Doldor advised of one of the reasons for withdrawal was due the fact that the portion of the property located in the Town of Warner is also located within their commercial district. Warner has indicated that they

would prefer not to see residential development in the district so to preserve the commercial area.

Attorney Doldor went on to explain that the Applicant is aware of the fact that there are two (2) properties located off Kearsarge Avenue that have wells that have been tested positive for MTBE. It is their understanding that the wells have been continuously monitored by the State.

Vice Chairman Britain asked Attorney Doldor if there were any concerns that the subdivision property would also be contaminated with MTBE. In response, Attorney Doldor explained that they are in the process of having the well water at the farmhouse tested.

Ted Kupper of Provan and Lorber, Inc. addressed the Board to further explain that the property within the Town of Warner is located within their C-1 district which is a commercial district and not an industrial district as some may have been led to believe. Furthermore, that the commercial district permits residential dwellings by way of a special exception from the Zoning Board of Adjustment. In meeting with the Planning Board in Warner, they had expressed a concern in losing their commercial property to residential and the affects that it may have on their tax base.

Mr. Kupper reviewed the subdivision plan explaining that the proposed road to service the five (5) residential lots will be approximately 900 LF and will have a hammerhead turn-around. The roadway drainage will be addressed by way of swales and culverts. Mr. Kupper stated that all lots meet or exceed the minimum buildable area minus wetlands. The test pit data has been provided in which the soil drainage classification is Gloucester.

Mr. Kupper advised of his contact with the NH Department of Environmental Services concerning the MTBE. He has been informed by the State that they have never found the source. Over the time they have monitored two (2) wells in which the contaminate level has decreased.

The Applicant had met with the Fire, Police, and Public Works Departments as well as a member of the Conservation Commission. Mr. Kupper advised of their intentions to formally meet with the Conservation Commission and Road Committee concerning the subdivision.

Vice Chairman Britain asked Mr. Kupper to explain the reason for the requested waivers. In response, Mr. Kupper explained that as

part of the application submittal he had requested temporary waivers to requiring submittal of the covenants and phasing plan. In each case the waivers were requested so to see how the development would progress following the meeting with the Board. Mr. Kupper then submitted a phasing plan in conformance with the Planning Board's Phased Development Standards. Mr. Kupper further explained the owners interest in wording the phasing plan so to allow the developer to select the lots that will be developed based on the sale of the lots. In order to be able to sell lots throughout the development, the Developer plans to construct the roadway in its entirety. Mrs. Bradstreet did not recall the Planning Board ever specifying the exact location of lots for phasing to occur; therefore, she was not aware of an issue that would prevent the Developer from selecting the lots with the understanding the number of lots cannot exceed that for which is outlined in the phasing agreement.

Mr. Taylor asked for an explanation as to reason for the applications for the Granite Hill and Hopkinton Woods subdivisions being submitted separately, noting that if the applications were together that the development would fall under a five (5) year phasing plan. In response, Mrs. McCarthy noted that the applications involve two (2) separate lots of record that are divided by an existing road. Mr. Kupper concurred, stating that while there is a second application on the agenda this evening, the Board should review the applications separately and vote separately in the case that there is a decision to deny or approve one development versus the other.

Vice Chairman Britain read for the record a memorandum from the Public Works Director requesting that the width of the proposed roadway be increased to 20-feet in order to be consistent with the width of Kearsarge Avenue (see attached copy). Additionally, Vice Chairman Britain read an email and letter from the Police Chief in which he advises that he has no concerns with sight distances and responds to a recent Concord Monitor letter to the editor that discusses the speed of vehicles, accidents, and need for police patrol along the road. Chief Wheeler includes in his letter reports of speeds of vehicles traveling the road along with photographs of the location of speed limit signs.

Fire Chief Rick Schaefer addressed the Planning Board to explain that he attending a Contoocook Village Precinct Commissioners meeting in which, at his request, they had agreed to the extension of the water main to the development to allow for sufficient fire protection. In agreeing to the extension, the Commissioners had advised that a vote at the Precinct's annual meeting would be necessary. Additionally, the Commissioners would require that the

twenty-two (22) residences connect to the water system. In response, Attorney Doldor reminded those present that the application before the Planning Board is for a six (6) lot subdivision. Chief Schaefer noted that when the Developer had presented the plans for review by his department it was based on a twenty-two (22) lot subdivision. Chief Schaefer noted the proximity of the existing water main to the development is less than one (1) mile. Vice Chairman Britain questioned whether the Commissioners were taking into consideration the phasing requirements by the Town when requesting that each home be connected to the water system. Chief Schaefer was unsure whether the Precinct was aware of the phasing requirement.

Mrs. McCarthy asked Chief Schaefer whether or not the Developer could install a private well with a hydrant to address the concern of fire protection. Chief Schaefer indicated that he would have to take that into consideration. He, again, stated that the proposed subdivision was presented to him as having twenty (22) lots.

Mr. Kupper asked that the Board consider the possibility that the residents may vote in opposition to extending the water line. He questioned whether the Precinct could withstand the extension as it is his understanding that the Precinct has had problems with the system that may preclude them from providing water to the development. In response, Mr. Taylor stated that the Planning Board would need confirmation from the Precinct Commission that they are able to supply the necessary water.

Chief Schaefer stated that if the development(s) were not in such close proximity to the water main that he would not be requesting the extension of the line. Furthermore, he stated that it is his understanding that there are no issues with the Precinct's ability to provide additional water to residents other than the fact that there is a process by which approval is required at their annual meeting.

Mr. Kupper readdressed the Board referring to that section of the Zoning Ordinance that explains the purpose of the R-4 district which does not include public water or sewer. Additionally, he referenced Section 4.4.9 of the Subdivision Regulations which allows the Planning Board to consider other options available. Mr. Kupper stated that the Developer is willing to consider other options.

Mr. Wilkey assumed that the Developer would have already considered other alternatives to constructing individual wells in the case that the ground water in the area is found to be contaminated with MTBE. In response, Mr. Kupper reiterated the fact that he had

spoken with the State regarding MTBE and has researched systems to remove contaminants such as MTBE from well water. The State has indicated that 13 parts per billion is hazardous. When last monitored there was one well that has 13.5 parts per billion and another well with 14 parts per billion. Mr. Kupper believed that there are other alternatives besides extending the water line.

Mr. Schaefer readdressed the Board to advise that he is in agreement with the Public Works Director in requesting a minimum of 20-feet in paved roadway.

Mrs. Hemingson, seconded by Chairman Ellsworth, moved to accept the application for substantive consideration. Motion carried in the affirmative.

The Planning Board members listed the following issues for the Applicant to address at the Board's February meeting:

- 1) Review of the engineering plans by Vollmer Associates on behalf of the Planning Board;
- 2) Hydro-Geologic evaluation of the potential impact of the availability of groundwater in the area;
- 3) Further information with respect to MTBE;
- 4) Specific information with respect to fire protection;
- 5) Written reports from the Road Committee, Fire Department, Conservation Commission, and Cemetery Trustees;
- 6) Written statement from NHDES as to the impact additional wells on the existing wells as it relates to the MTBE contaminate;
- 7) Applicant to notify NHDES of their intentions to install private wells;
- 8) Traffic study to include seasonal and peak traffic as a result of the Hopkinton Fair.
- 9) Written confirmation as to the Contoocook Precinct's willingness to allow the water line to be extended, including the confirmation of the water capacity available to serve the development. It is understood that the extension of the water line would be contingent upon approval at the Precinct's annual meeting.
- 10) Written report as to the advantages and disadvantages of connecting to the Town water system;
- 11) Consideration of providing the Town with an easement in the rear of the development that may be used as some point in the future, if necessary, to connect the subdivision to Route 103.
- 12) Consideration of creating a cluster development, rather than conventional subdivision.

- 13) Applicant to obtain well test results for properties from Gate G of the Hopkinton Fairgrounds to the development. Test results are then to be provided to the Planning Board.

In response to some of the comments or issues to be addressed, Mr. Kupper stated that the owners of the property have decided that they are not interested in creating a conservation (cluster) subdivision given the location of the wetlands on the property. Additionally, Mr. Kupper stated that the owners believe that the Granite Hill subdivision would be more attractive as a dead-end road; therefore, they are not interested in the possibility of the road being extended as a through road connecting to Route 127.

Sue William of Kearsarge Avenue informed those present that her well is contaminated with MTBE. She believes that MTBE is unpredictable from one particular test to another. She currently has her water delivered to her home and the Department of Environmental Services has warned her not to bathe with her well water as MTBE can be absorbed into the skin. Mrs. Williams questioned whether she and her neighbors would also be eligible to be connected to the precinct water system. Lastly, Mrs. Williams questioned whether the State is looking for the source of the contamination.

Carol Breault, Kearsarge Avenue property owner, addressed the Board questioning whether the State has ever tested the wetlands in the area to determine whether MTBE is in the water. Mrs. Breault expressed concern with the impact of the subdivision on the wetlands and the roads in the area.

Raymond Mock of Kearsarge Avenue addressed the Board explaining that he had his well water tested approximately four-years ago in which it was determined that his water is also contaminated with MTBE. Mr. Mock suggested that consideration should be given to the existing residences in the area in connected to the precinct water system.

Bryce Fletcher of Fletcher Lane addressed the Board requesting that consideration be given to the impact that a development of this size would have on the area. Mr. Fletcher reminded those present that there is no lighting or sidewalks in the area.

Byron Carr of Burnham Intervale Road advised of a similar situation in which John Herrick had paid to have the precinct water extended to his property along Burnham Intervale Road. Mr. Carr suggested that discussions should occur with the precinct before proceeding

with the idea that the residences would be connected to the precinct water.

Paula Bailey of Fletcher Lane addressed the Board to discuss the problems with the contamination of the well water for those properties along Fletcher Lane. Mrs. Bailey questioned the impact that the proposed development may have on the existing water capacity for the area. She then questioned whether there would be any recourse by the existing property owners should the development impact the water quality or capacity in the area.

Ann Breault of Kearsarge Avenue addressed the Board to express concerns with the development and the impact that it may have on the neighborhood. Mrs. Breault discussed the increase in traffic in the area and the affects of the new homes on the wildlife habitat.

Mrs. Williams readdressed the Board questioning whether the Planning Board was in receipt of a letter signed by the residents in the area concerning the proposed subdivisions. Mrs. Robertson advised that copies of the letter were provided to each Board member.

Mrs. Carol Breault readdressed the Board expressing concern that additional runoff would be created as a result of the development. Mrs. Breault referred to an existing culvert located adjacent to her property in which water from the road continuously flows into. Mrs. Breault requested that if the development were to be approved that the culvert be removed as she is concerned that water flowing onto her property may be contaminated.

Mr. Mock readdressed the Board addressing the traffic impact that is currently as a result of the events that take place at the Hopkinton Fairgrounds. He believed that the additional residences in the area would pose even more of an impact.

Chairman Ellsworth noted that he had received telephone calls from Steve Adams of Kearsarge Avenue and Jayne Schoch of Pine Street who had expressed concern with the potential impact of the proposed development.

In response to the comments from the residents, Mr. Kupper stated that proposed subdivision will not impact the wetlands in the area. With regards to the concerns of MTBE contamination, Mr. Kupper stated that he was not aware of the additional areas of contamination. He will coordinate receipt of information from the residents in the area and will continue dialogue with NHDES.

Mrs. Hemingson asked that NHDES address the impact, if any, of additional wells on the existing wells as it relates to the MTBE.

Vice Chairman Britain informed Mr. Kupper of the need to have the engineering data reviewed by the Town's contracted engineer. The cost of the review is to be paid by the Applicant. Following brief discussion with the property owners, Mr. Kupper agreed to the engineering review.

With regards to the completion of a traffic study, Mr. Kupper assumed that the Applicant would complete the study that would be reviewed by the Town's contracted engineer. The Board concurred.

Mr. Kupper suggested that the Planning Board request water quality information from the abutters in which the Board could then pass the information on to the Applicant. In response, Vice Chairman Britain requested that the Applicant be responsible for obtaining the information. The Board concurred. Mr. Kupper stated that Provan & Lorber will mail letters to those property owners beginning at a point of Gate G of the Hopkinton Fairgrounds. The Board concurred.

Motion made by Mr. Kidder, seconded by Chairman Ellsworth, to continue Application #2004-23 to the February 8, 2005 public hearing in order to allow the Applicant an opportunity to address the list of issues compiled by the Planning Board. Motion carried unanimously (Bradstreet, McCarthy, Wilkey, Kidder, Hemingson, Ellsworth, Taylor, and Britain).

Vice Chairman Britain announced the Planning Board's policy to not begin review of applications after 11 PM; therefore, review of Application #2004-24 will be postponed to the February 8, 2005 hearing.

#2004-24 Theodore Kupper, P.E., Provan & Lorber, Inc.—Applicant requests approval of a sixteen (16) lot residential subdivision to be known as Hopkinton Woods. The property owned by A & P Investments, LLC, located on the west side of Kearsarge Avenue (Warner Town Line) in the R-4 (residential/agricultural) district, shown on Tax Map 223 as Lot 1.

V. Other Business—

- Request of Paula Bibber and Robert Bowers to annex properties that they own located at 27 and 29 Cedar Street, shown on Tax Map 101 as Lots 14.1 and 14.2.

Following brief discussion, the Planning Board voted unanimously in opposition to the requested merger as the merger of Lot 14.1 and Lot 14.2 would create a more non-conforming situation. Currently, there is a residential building located Lot 14.1 and Lot 14.2. The building located on Lot 14.2 straddles the property line onto Lot 14.1. The Planning Board believed that the merger of the two (2) lots would increase the non-conformity by having two (2) residential uses on one parcel.

VI. Adjournment.

Chairman Ellsworth declared the meeting adjourned at 11:15 PM. The next scheduled meeting of the Planning Board is Tuesday, February 8, 2005 at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Board concerning the application(s) may present to the Superior Court a petition, duly verified, setting forth that such a decision is illegal or unreasonable in whole or part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within thirty (30) days after the Board's final decision regarding the application in question has been filed and becomes available for public inspection in the Planning Office.