

Hopkinton Planning Board
Minutes
November 14, 2006

Acting Chairman Michael Wilkey opened the Hopkinton Planning Board public hearing of Tuesday, November 14, 2006, at 7:00 PM in the Town Hall. Members present: Celeste Hemingson, Jane Bradstreet, Bethann McCarthy and Clarke Kidder. Members absent: Chairman Bruce Ellsworth, Vice Chairman Timothy Britain, Alternate Edwin Taylor and Alternate Cettie Connolly.

I. Review of the Capital Improvements Plan for year ending December 31, 2007— Mr. Wilkey opened the meeting recognizing Selectman Peter Russell for the purpose of reviewing the proposed municipal capital projects. Mr. Russell advised that the Selectmen had "flat lined" the spending for municipal capital projects at total cost of \$410,000 per year. There are two (2) capital projects to be accomplished. One project involves a second story addition to the Contoocook Fire Station, along with a first floor bay addition to house the ladder truck. The Selectmen anticipate waiting until the Library bond is paid off in 2007 and then holding the bond payment of the Fire Station additions to the same as was for the Library.

The second project to be completed is the construction of a Community Center at Houston Barn; however, as a result of a recent meeting with the School Board, the Selectmen are unsure, at this point, whether a Community Center would be constructed at the barn or whether the Town would join in with the School in the construction of a Community Center as part of the renovation/addition project for Maple Street School. Selectman Russell advised that the Transfer Station bond will be paid off in 2009 and at that point in time the Selectmen hope to continue to utilize the same yearly debt payment for the construction of a Community Center.

The Planning Board discussed the lack of information from the School District and the need for expenditure information from the Board of Selectmen. Following discussion, the Board agreed to post pone action pending receipt of additional information. The Board will speak with Chairman Ellsworth to determine whether he had a chance to follow-up discussions with the School Board concerning the need for information from the School District.

Lastly, Mr. Wilkey commended the School and Town for their efforts in considering the possibility of sharing the use of the facilities.

II. Conceptual Consultations—There were no conceptual plans presented.

III. Applications—

#2006-16 Da-Mont Investments, Inc.—Surveyor Joseph Wichert presented revised plans of five (5) single-family residential lots accessed by a proposed new roadway. The revisions addressed comments raised by Vollmer Associates, the

Town's Consultant Engineer. The property is located off Branch Londonderry Turnpike in the R-3 (low density residential) district, shown on Tax Map 266 as Lot 62. This is a continuation of the October 10, 2006 hearing in which the Planning Board had continued the application so to allow the following:

- 1) The Applicant an opportunity to revise the plans as recommended by Vollmer Associates.
- 2) Review of the plan revisions by Vollmer Associates.
- 3) Site Walk of the property.
- 4) Additional comments from the Public Works Director concerning the flooding of Branch Londonderry Turnpike, and
- 5) Further review by the Applicant as to the construction of a dry hydrant or the installation of sprinklers.

Mr. Wilkey recognized Public Works Director Harold Blanchette for information concerning the flooding of Branch Londonderry Turnpike. Mr. Blanchette advised that the road had been closed last week due to rain. He noted that Branch Londonderry Turnpike had been closed three times this year and three times last year. Certain times of the year, especially during the spring, the road is periodically closed due to flooding. He estimated anytime that we receive 2-inches of rain the road needs to be closed temporarily due to its elevation and its location through a wetland.

Mrs. Hemingson questioned whether the base of the road could be raised so to avoid flooding. Mr. Blanchette replied no, explaining that raising the road would cause flooding of the nearby residence due to the elevation of the home. Because of the wetland being located on both sides of the road there currently is no place for water to drain or to be redirected. Mrs. Hemingson then questioned whether the construction of a bridge at that particular location in the road would address the issue. Mr. Blanchette replied yes, stating that it would have to be raised above the flood elevation.

Mrs. Bradstreet assumed that when the road is closed residents have to travel into Bow to enter and exit their properties. Mr. Blanchette replied yes, explaining that residents travel through Bow and into Concord along a small stretch of I-89 and then cross over into Dunbarton and back into Hopkinton off Jewett Road.

Mrs. Hemingson inquired as to the history of Branch Londonderry Turnpike. In response, Mr. Blanchette stated that the road was constructed a number of years ago as a cut-off into Concord. The road was previously known as Hooksett Turnpike. He then stated that the road would never be constructed today in that particular location due to the wetland.

Mr. Kidder believed the Planning Board must consider life safety and the impact to the school bus system should the subdivision be approved and access be closed from Hopkinton to the development.

Mr. Blanchette stated that on two (2) occasions in the past 18-years he has had to plow Branch Londonderry Turnpike by accessing the road through Concord and Bow.

Mrs. Bradstreet suggested that additional culverts and the raising of the base of the road would equalize the water on both sides of the roadway so to avoid flooding.

Mrs. McCarthy questioned the cost for upgrading the road. Mr. Blanchette was unsure, suggesting that complete engineering of the road would be necessary. Mr. Wilkey suggested that Vollmer Associates review the road and provide information as to the necessary improvements along with the total cost. While considering improvements to the road, the Board needs consider the potential impact that the water may have to properties in the Town of Bow. At this point, Mr. Blanchette provided an estimate of over \$400,000 to improve the road correctly.

Mr. Kidder questioned whether the design of the proposed subdivision satisfies the requirements of the Subdivision Regulations. In response, Mrs. Robertson stated that engineering review of the plans had been completed by Vollmer and the Applicant had addressed all comments.

Engineer Jeff Lewis of Northpoint Engineering addressed the Board explaining their intentions of upgrading the size of the culvert in the road.

Surveyor Joe Wichert addressed the issue of fire suppression for the proposed development. The Fire Department is requesting the installation of a dry hydrant at a specific location along Stickney Hill Road or the installation of residential sprinklers. Mr. Wichert advised of the Applicant's willingness to cover the cost of the dry hydrant along with obtaining the necessary permits; however, there is concern with the need to obtain an easement from a private property owner for the installation of the hydrant. Mr. Wichert suggested that negotiations of the easement should be done by the Town, rather than the developer as the Town will be the actual holder of the easement. Fire Chief Rick Schaefer addressed the Board in favor of the installation of the dry hydrant as it will provide water protection for a number of homes in the area; however, he noted that he was not familiar with the easement process. Mr. Wichert stated that if the property owner is not willing to provide the Town with an easement, the developer would agree to install residential sprinklers in each of the proposed homes. Mrs. Bradstreet objected to the requirement for the installation of sprinklers due to the expense to the owner.

Mr. Wichert then addressed the concerns of access to the homes by emergency services should Branch Londonderry Turnpike be closed due to flooding. He explained a similar situation in the Town's of Deering and Auburn in which a particular section of the Town is flagged in the emergency system as requiring mutual response due to the location of the properties. In that particular case, both communities respond at the same time to a call for emergency assistance.

While discussing the condition of Branch Londonderry Turnpike members of the Board believed that it is the responsibility of the developer to "solve the problem". Mrs. Hemingson suggested that the quality of the existing road may make the development impossible. It was then suggested that the application be continue so to allow the developer to come back before the Board with a proposal to address the flooding of the existing road.

Mrs. Bradstreet would like to receive a 10-year average as to the number of times Branch Londonderry Turnpike had been closed or impassable. Mrs. Robertson noted that the information for the past two-years came from Merrimack County Dispatch. Mr. Blanchette agreed, stating that there is no data for prior years available.

Mr. Wichert readdressed the Board reviewing the application review process to date; explaining that he originally came before the Board with a conceptual plan later changing the design and submitting an application for subdivision. The Board has held two public hearings concerning the application with engineering review completed by Vollmer Associates and State subdivision approval being received. The Town of Bow and City of Concord were notified of the proposed subdivision with a response received from the Town of Bow. Mr. Wichert had spoken with Doug Woodward of Concord who has agreed to provide Mr. Wichert with his comments.

While the Board agreed that the Applicant had been cooperative throughout the application process, a majority of the Board believed that the issue of safety as a result of the condition of Branch Londonderry Turnpike needs to be addressed by the Applicant.

Mrs. Hemingson noted that while residents of the new development will be able to go through Bow and Concord to enter and exit their property they have a right to demand services from Hopkinton. Mrs. McCarthy concurred with Mrs. Hemingson, suggesting that the developer may have to pay for a portion of improvements to the road. As the development will double the number of homes and is proposed in an area that is in the outer edge of the town, Mrs. McCarthy believed that the development may be considered scattered and premature. At this point, Mrs. McCarthy reviewed the language in the Subdivision Regulations for scattered and premature subdivisions: "The Board may disapprove any plat where it finds that it would result in the scattered or premature subdivision of land such as would involve danger or injury to the public health, safety or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection or other public services and facilities, or necessitate an excessive expenditure of public funds for the supply of such services and facilities."

Mr. Wilkey provided Mr. Wichert with the option for the Board to vote on the application as presented or for the Board to request that the Applicant provide a solution as to the improvements to Branch Londonderry Turnpike, along with the

cost of improvements. In response, Mr. Wichert stated that the property currently has access from the Town of Bow, so that the issue of the condition of the existing road should not affect the development.

Property Owner Barry Upton addressed the Board stating that while the water floods over the road it does not mean that the road is impassable. He noted that on occasion residents drive around the barriers to get to their homes. In response, Mr. Blanchette stated that he is aware that residents drive around the barriers and that last year a resident had driven into a culvert as a result of driving over the flooded road. He anticipates erecting gates along the road instead of using barriers.

Mr. Lewis readdressed the Board stating that it would take time to engineer the road and to provide a watershed analysis, suggesting that it may take someone more than one-month to complete the work. Mrs. Hemingson suggested that the Board might consider one-third of the cost of the improvements to be the developers responsibility with the remaining two-thirds the Town's responsibility. Mrs. Robertson noted that appropriation of the Town's portion of the cost of improvements may need to be voted on by the residents at March Town Meeting. Mr. Wichert expressed concern with the possibility that the time delay and cost of improvements may prevent the development from occurring. Mr. Wichert suggested that the Applicant may be agreeable to the cost of completing the engineering of the roadway provided the Town pays for the cost of engineering review by Vollmer Associates. At this point, he requested a continuation of the application giving the Applicant an opportunity to consult with counsel. Additionally, Mr. Wichert stated that the Applicant would agree to an extension of the 60-day time period in reviewing the application.

Mrs. McCarthy, seconded by Mrs. Hemingson, moved to continue Application #2006-16 to the December 12, 2006 hearing, so to allow the Applicant an opportunity to consult with counsel. Motion carried unanimously.

IV. Any other business to legally come before the meeting.

Robert Pearce on behalf of the Residents Environmental Action Committee for Health (REACH) presented two (2) proposed zoning amendments that REACH would like the Planning Board to consider recommending for adoption at the Annual Town Meeting.

The first proposed amendment involves the addition of a definition of Construction and Demolition Debris. The proposed amendment would insert the following in the Zoning Ordinance:

2.1.C.7 Construction and Demolition Debris: Waste materials, wood, and rubble resulting from the construction, remodeling, repair, removal or demolition of structures or roads, including any by-products or materials derived from such waste materials, wood, and rubble.

Mr. Pearce explained that the Zoning Ordinance as currently written provides no definition for Construction and Demolition Debris; however, reference to Construction and Demolition Debris is at least in two (2) separate sections of the Zoning Ordinance. Section 5.4.5 Dumping or Disposal of Garbage and Other Refuse and Section 5.6 Open Storage in the Industrial (M-1) Zone.

Mr. Kidder inquired as to why Mr. Pearce had not referenced the State's standard definition of Construction and Demolition Debris. In response, Mr. Pearce stated that the definition proposed follows the State's definition, but in simpler terms. The reason for the Town having its own definition is in the case that the State's standard changes. For example, should the State consider waste wood that has been processed into wood chips as no longer Construction and Demolition Debris, the Town would be able to enforce its own standard and still consider the material Construction and Demolition Debris.

Mrs. McCarthy questioned whether the proposed definition would prohibit the storage of unpainted wood. In response, Mr. Pearce stated that the storage of Construction of Demolition Debris is prohibited near the river. However, someone wishing to store clean wood may obtain a Variance if they were able to demonstrate that the wood is clean.

Following discussion, the Board discussed the fact that while provisions involving Construction and Demolition Debris are included in the Zoning Ordinance it was an oversight to not include a definition of the term.

Mr. Pearce then presented a second proposed zoning amendment that would specify that a variance or special exception granted would expire upon two years of disuse. The proposed amendment would insert the following in the Zoning Ordinance:

15.12 Expiration of Special Exceptions and Variances

Unless otherwise specified in the decision granting the special exception or variance in question, a special exception or variance granted by the Zoning Board of Adjustment shall expire if:

- (a) the special exception or variance is not used within two years following the date of the decision granting such special exception or variance; or*
- (b) the use or condition necessitating the special exception or variance is discontinued or ceases to exist for a period of two years or more following the date of the decision granting such special exception or variance.*

Mr. Pearce had provided the Board with a copy of the Chester Zoning Ordinance and the Town of Littleton's Zoning Ordinance that provides the same provision;

however, with a time period of twelve (12) months, rather than the proposed two (2) years. Mr. Pearce recognized the fact that variances and special exceptions run with the land; however, towns have the ability to adopt ordinances that provide for the loss of a special exception or variance due to disuse.

The Board briefly discussed the proposed amendment as compared to the provision in the Ordinance regarding the expiration of grandfathered non-conforming uses that have been discontinued for a period of one-year. It was agreed that the proposed amendment providing an expiration of a special exception or variance due to disuse would assist the Town in tracking special exceptions or variances, so to avoid the implement of the special exception or variances years later when the criteria or circumstances that resulted in the granting of the exception may have changed. Board members suggested that applicants that obtain special exceptions or variances could reapply to the Zoning Board of Adjustment for an extension depending upon the circumstances.

Mrs. Bradstreet, seconded by Mrs. McCarthy, moved that the Planning Board propose the two (2) amendments for adoption at the upcoming Annual Town Meeting. Motion carried unanimously. The Board will schedule the necessary public hearing for public comment.

V. Review of the Minutes and Notice of Decision of August 8, September 27, and October 10, 2006.

Review of the Minutes and Notice of Decisions were deferred to the December 12, 2006 meeting.

VI. Adjournment

There being no further business, Mr. Wilkey declared the meeting adjourned at 9:05 PM. The next scheduled meeting of the Planning Board is Tuesday, December 12, 2006 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.