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Hopkinton Planning Board
Minutes
October 14, 2008

Chairman Bruce Ellsworth opened the Hopkinton Planning Board will meet of Tuesday, October 14, 2008, beginning at 7:00 PM in the Slusser Senior Center (41 Houston Drive). Members present: Michael Wilkey, Bethann McCarthy, Jane Bradstreet, and Cettie Connolly.

I. Review of the Minutes and Notice of Decision of August 12 and September 10, 2008.

Review of the Minutes and Notice of Decision was deferred to the November 11, 2008 meeting.

II. Other business to legally come before the meeting.

Francis & Ellen Chase Subdivision, Irish Hill Road – Francis Chase addressed the Board to review the status of his seven lot subdivision and new road located off Irish Hill Road in the R-4 (residential/agricultural) district, shown on Tax Map 237 as Lot 36. The subdivision was approved with conditions on August 14, 2007. Mr. Chase began by explaining that due to financial difficulties he has been unable to complete his project. However, he has recently granted a bond extension to the Town and his now requesting a one-year extension for construction. He currently has plans to restart the construction of the roadway sometime next week.

Mr. Wilkey expressed concern with the fact that as a condition of approval the existing residence was to be removed within one-year from the date of approval and to date it has not be done.

Discussion briefly ensued concerning the condition of the work done to date on the proposed roadway. Mr. Chase and the Board reviewed photographs of the site. Mrs. Robertson relayed concerns of the Public Works Director concerning the condition of the project and the fact that the Director will be requesting a pre-construction conference prior to any additional work be done. Mr. Chase was agreeable.

Board members discussed whether it is permissible for them to grant an extension due to the fact that the one year time period for "active and substantial development" had expired on August 14, 2008. Mrs. Connolly suggested that Mr. Chase had met the requirement for "active and substantial development" as outlined in the statute.

Mrs. McCarthy questioned whether the Board should receive comments from the Town's Consultant Engineer and the Public Works Director with regards to the roadway work to date.

Following discussion and review of the NH Revised Statutes, the Board suggested that Mr. Chase submit a formal request for extension of the project, including addressing the condition that had been imposed requiring the existing residence to be removed. The requests would then be placed on the Board's agenda for public hearing and notification to abutters. In the meantime, Mrs. Robertson will consult with the Board's counsel and Public Works Director.

III. Application(s).

#2008-9 Public Service of NH (PSNH) — David Crane, Arborist and Preventive Maintenance Coordinator for Public Service of New Hampshire addressed the Board requesting permission to trim and remove trees along the following scenic roads pursuant to RSA 231:158: Barton Corner, Clement Hill, College Hill, Hatfield, Moran, Old Putney Hill, Pet Dow and Thain.

Mr. Crane explained how PSNH specifications call for removal of brush and limbs less than four inches in diameter which are located within eight feet to the side of the power lines, ten feet below and fifteen feet above conductors. The reason for the removal of the brush and limbs below is to anticipate for future growth. Removal of all limbs above and to the side is in an effort to prevent power outages due to the weight of the snow on the limbs during ice and snow storms. Larger trees or limbs that may pose a threat to the lines or equipment because of decay or other defect will be removed on a case by case basis. Currently, there are three trees along Hatfield, two along Moran, and one along Thain Road that are flagged to be removed due to decay. In some cases, while the contractor is in the field it may be found that there are additional trees, that were missed during the original marking, that need to be removed; however, that does not occur often. PSNH has contracted the services of Asplundh Tree Company to perform the trimming and removal of the trees.

Mr. Crane noted that the contractor is required to contact each landowner where trees are to be trimmed prior to commencement of work on that property. It was further noted that the Board had sent a notice of this meeting to owners along the roads. As a result, Mr. Crane received telephone calls from customers that have concerns with the trees to be removed. In most cases, the telephone calls were from customers that had requested specific trees along their property or along the edge of the street be removed. Mr. Crane reviewed the individual requests with the Board, noting that the trees are along Clement Hill Road and Old Putney Hill Road. In both cases, Mr. Crane had visited the sites and informed the owners that he would have no problem removing the trees provided that it is determined that they pose a threat to the power lines and provided permission is received from the Planning Board. In one case, Mr. Crane had received a request to remove a healthy elm tree that is on private property. Again, he had informed the owner that removal would be subject to Planning Board approval.

There was discussion as to the various requests and the condition of the trees. Chairman Ellsworth, on behalf of the Planning Board, informed Mr. Crane of the Board's support for the removal of trees that while in the field it is determined that there are trees that cause a threat to the power lines. However, it was noted that the Board does not openly support the removal of trees that do not affect the lines. It was agreed that it is a judgment call that is to be made by Mr. Crane while in the field.

Mr. Crane then advised the Board of four trees along Old Putney Hill Road in which a resident has requested be removed. Two of the trees would be defined as brush under the Statute as they are less than 15-inches in circumference. In response, Chairman Ellsworth stated that the Planning Board will follow the statutory definition of a tree size; therefore, permission to remove the two trees in question would not be necessary.

Chairman Ellsworth questioned the procedure that would be followed should a homeowner not be home at the time of the contractor's initial visit. Mr. Crane responded by explaining how a pamphlet will be left at the home for a signature of consent. No work will take place without contact with the customer. Mr. Crane then went on to explain the process of the owner completing a refusal form should they not come to an agreement with the contractor. Lastly, Mr. Crane advised the Board of the process by which PSNH has the ability to petition the Selectmen should the owner refuse to cooperate.

Robert Wells of Hatfield Road noted that in the past, prior to cutting, representatives of PSNH had walked the roads with residents in an effort to address concerns. He requested that the same process be repeated. While Mr. Crane did not object to walking the road with the residents, he did express concern in general with the timing involved and questioned whether the Board would require that same process for every neighborhood. He further noted that walking of the roads did take place during the 1999 cutting; however, it was not done in 2004. In the case of the 1999 cutting there were some roads in which there were no residents that participated. In the case of Hatfield Road there were a number of residents that had expressed interest.

Chairman Ellsworth noted that the request this evening by PSNH was publicly noticed and notices were sent to residents along the roads. He asked Mr. Crane to accommodate Mr. Well's request in walking Hatfield Road with the residents. Mr. Crane agreed.

Laura Morgan of Barton Corner Road addressed the Board requesting that PSNH walk Barton Corner Road with the residents. She expressed concern with the cutting of the trees, noting that Barton Corner Road is very narrow and that any removal of trees or limbs gives the appearance of a substantial cutting. Mr. Crane agreed to Mrs. Morgan's request to walk Barton Corner Road.

Howard Helrich of Hatfield Road stated that in 2004 he had spoken with the contractor about the removal of a tree, which they had agreed to at the time; however, the tree still remains on-site. He had assumed that it would be removed during this cycle. Mr. Crane was unsure of the specific tree that Mr. Helrich was referring to, noting that if the tree is currently flagged it will be cut. Mr. Helrich questioned whether PSNH would be removing the wood from the site. Mr. Crane explained how generally the wood is left on-site for the owners, unless the owner has requested otherwise. It was noted that the cost of removal of the wood from the site is a factor that is taken into consideration when determining whether the tree needs to be cut down.

Mrs. McCarthy advised Mr. Crane of a movement in Hopkinton to collect firewood for those in need. She questioned whether the wood could be cut so that it is a suitable size to be used for fire wood. Mr. Crane replied yes, indicating that if there are volunteers or town employees that are willing to move the wood then PSNH would be willing to have the trees cut to length.

Following discussion, a motion made by Mrs. Connolly, seconded by Mr. Wilkey, to approve application #2008-9 as presented. Motion carried unanimously.

#2008-10 Meridian Land Services, Inc.— Carl Foley of Meridian Land Services representing Harold Parmelee and Anders Hogblom addressed the Board requesting approval of a two lot subdivision of property located off Patch Road in the R-4 (residential/agricultural) district, shown on Tax Map 260 as Lot 19.1. The subdivision will create a new lot consisting of 50.519 acres with a remainder lot of 231.2 acres. The intent of the subdivision is to allow the parties to terminate their joint ownership. Currently, there are no plans to develop the property.

Mr. Foley advised that a detailed topographic survey was completed on approximately 7.5 acres of the proposed 50.519 acre lot. This included wetlands, a possible access point, contours, and setback dimensions.

Discussion ensued as to the review of a similar request at the Board's previous meeting with the Board ultimately not accepting the application as complete, requesting additional information shown on the plan. In reviewing the plan presented, Mr. Wilkey, Mrs. Bradstreet and Mrs. Connolly believed that the plan presented addressed the Board's prior requests.

For the remaining 231 acre lot, Mr. Foley requested waivers from sections 3.3.1(b) topographic features, (c) contours not exceed five feet, (f) surface drainage features, watercourses, and (i) all other

features. Waivers were also requested from sections 3.3.2 (b) building setback dimensions and 12.4 wetland delineation. He noted that test pits were completed on both lots. Wetlands were not found in the vicinity of the test pit for the remaining 231.2 acre lot.

Motion was made by Mrs. Bradstreet, seconded by Mrs. Connolly, to accept the application for consideration and as complete. Motion carried unanimously.

There was no public testimony presented.

Motion made by Mrs. Bradstreet, seconded by Mrs. Connolly, to approve application #2008-10 as presented with waivers granted from sections 3.3.1(b), (c), (f), (i), 3.3.2 (b), and 12.4 for all areas with the exception of 2.75 acres of the 50.519 acre lot. Motion carried unanimously.

#2008-11 Elaine Swenson—Kurt Swenson addressed the Board representing the Elaine Swenson Revocable Trust and Helen Satter for a lot line adjustment of properties located at 262 and 336 Putney Hill Road in the R-2 (medium density) and R-3 (low density) districts, shown on Tax Map 239 as Lots 8 and 9. The intent of the adjustment is to move approximately 1.2 acres from Lot 8 to Lot 9.

Following review of the plan, a motion made by Mr. Wilkey, seconded by Mrs. Bradstreet, to accept the application for consideration and as complete. Motion carried unanimously.

There was no public testimony presented.

Motion made by Mr. Wilkey, seconded by Mrs. Connolly, to approve application #2008-11 as presented. Motion carried unanimously.

#2008-12 Mark & Eric Buckland—Mark and Eric Buckland addressed the Board requesting Site Plan Review to operate a home business selling firearms meeting all local, state and federal requirements. The property is owned by Mark and Sara Buckland, located at 1182 Penacook Road in the R-4 (residential/agricultural) district, shown on Tax Map 243 as Lot 36.

Mr. Eric Buckland reviewed the checklist of information requested for Site Plan Review. He then advised of his meeting with Investigator Thierry Soucy of the Bureau of Alcohol, Tobacco and Firearms (ATF) in which he had given approval for the business pending appropriate town approvals. Mrs. Robertson confirmed the fact that Mr. Soucy is waiting for the Bucklands to receive all necessary local permits. She then noted that the Fire Inspector and Police Chief were aware of the proposal and had expressed no concerns. Mr. Eric Buckland concurred, then explaining the process by which he would need to notify the Hopkinton Police Department when he begins operation of the business. He further explained the process by which background checks will be done by either the Hopkinton Police Department or the ATF, dependent upon the type of firearm sold.

The Zoning Board of Adjustment granted a Special Exception for the home business at their meeting of October 7, 2008, with no conditions.

In reviewing the site plan, Mr. Eric Buckland explained how there will be no changes to the exterior of the property; nor is there a significant amount of traffic anticipated as the business hours will be two days a week from 6 AM to 10 PM, Tuesday and Thursday. There will be no sign at the property. Business will be advertised by way of word-of-mouth and eventually through a website that is to be established.

The business will be conducted in the finished basement of the home. All firearms will be stored in a locked safe and/or will have trigger locks as is required by law. When questioned as to the number of firearms to be stored at one time, Mr. Eric Buckland estimated between five and ten noting that he

does not have the financial means to purchase a great amount of inventory. Most sales will involve a customer requesting a certain type of firearm and Mr. Buckland then ordering it through a vendor.

At this point, Mr. Buckland reviewed the site plan showing the existing parking area that is suitable for the residence and potential customers. Parking includes adequate space for a vehicle to turn-around without having to back out onto the street.

Mr. Mark Buckland noted that they are in the process of obtaining quotes for a safety alarm system for the home, pending Town approval of the business.

Motion made by Mrs. Connolly, seconded by Mr. Wilkey, to accept the application as complete and for consideration. Motion carried unanimously.

There was no one present wishing to provide public testimony.

Motion made by Mrs. Connolly, seconded by Mrs. Bradstreet, to approve application #2008-12 as presented. Motion carried unanimously.

IV. Other Business - Continued

Zoning Amendments proposed by Planning Board— While there was no particular matter in which the Planning Board is considering for the March 2009 Annual Town Meeting, Mrs. Robertson noted that there were minor clarification that needed to be made involving references to sections of the Zoning Ordinance. It is assumed that this is due to the fact that the numerical sequence of the sections had been revised over the years and not all references were updated.

Following brief discussion, the Board asked that Mrs. Robertson review the Zoning Ordinance and provide a list of clarifying revisions that may be necessary.

Between Meeting Communications Policy— As a follow-up to conversations with the Board's Counsel Attorney Bernie Waugh concerning the right-to-know-law and electronic communications, the Planning Board was in receipt of a draft Between Meeting Communications Policy provided by Attorney Waugh.

The Planning Board, at their next scheduled meeting, will hold a public hearing and adopt the Between Meeting Communications Policy as written.

Separate Legal Counsel from the Town's General Counsel—As a follow-up to the Board's July 15th meeting with Planning Board and Zoning Board of Adjustment counsel Attorney Bernie Waugh, Mrs. Robertson had written a letter to Attorney Waugh confirming the Board's request that all correspondence concerning planning and zoning matters, except the actual invoice, is to be sent to the Planning/Zoning Director. Furthermore, the Boards had asked that copies of correspondence should **not** be automatically sent to the Selectmen. The intent of the request is to ensure that the Boards maintain a degree of independence from the Board of Selectmen and Town Administrator as it relates to matters before the Planning Board and Board of Adjustment.

IV. Adjournment.

With no other business to come before the meeting, Chairman Ellsworth declared the meeting adjourned at 9:20 PM. The next regular scheduled meeting of the Planning Board is Tuesday, November 11, 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 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.