

Hopkinton Planning Board
Minutes
September 8, 2009

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting of Tuesday, September 8, 2009, beginning at 7:00 PM in St. Andrew's Parish Hall. Members present: Timothy Britain, Celeste Hemingson, Michael Wilkey, Bethann McCarthy, Edwin Taylor, Jane Bradstreet and Cettie Connolly. Members absent: James O'Brien and Clarke Kidder.

I. Minutes and Notice of Decision of July 14, 2009.

Mrs. Bradstreet, seconded by Mr. Taylor, moved to approve the Minutes of July 14, 2009 as presented. Motion carried unanimously.

Review of the Minutes of August 11, 2009 was deferred to the October 13, 2009 meeting.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to approve the Notice of Decision of August 11, 2009 as presented. Motion carried unanimously.

II. Conceptual Consultation.

John Herrick, owner of property located off Burnham Intervale Road in the M-1 (industrial) district, addressed the Board for a conceptual consultation of his proposal to excavate material from specific areas of his property. Mr. Herrick is considering phasing the project with Phase I involving the excavation of two sites on his property. Phase II will ultimately involve the remainder of the property located towards the rear. A majority of the property is very flat and sandy. These specific areas proposed for excavation are at a higher elevation that will involve the removal of approximately six feet of material. The type of gravel is currently in high demand for use in making asphalt or concrete sand for use on roads.

Glen Ohlund, Chairman of the Economic Development Committee, discussed his committee's efforts in trying to find an alternative access route to the industrial property. At the time, members discussed various alternates that had been studied by Provan & Lorber during the past years. Mr. Herrick noted that the only feasible access route appears to be access through the old railroad bed to Kast Hill Road.

Mr. Ohlund reviewed with the Board the Capital Region Development Counsel's findings as to the highest and best use for the industrial district in an effort to increase the Town's commercial tax revenue. The three uses included a distribution center, office/tech park and mixed uses (residential/industrial/commercial). Following review of the findings it was determined that a single or multi-user would be the best use. Mr. Ohlund thought that in order to make the access road viable there may need to be some type of collaboration with other property owners. Mr. Herrick believed that excavating the property so that it is entirely flat will improve the likelihood that a business will develop the property.

Phase I of the excavation is estimated to take five years to complete. The project will involve excavation of approximately fifteen acres. Chairman Ellsworth discussed the need to apply for local and State permits should Mr. Herrick decide to proceed with the project. Mr. Herrick agreed.

III. Application(s).

#2008-13B Francis Chase – Chairman Ellsworth noted that at the Board's previous meeting the Board approved a 30-day extension from August 11, 2009 for removal of the home on Lot 1, which was a condition of the Planning Board's August 14, 2007 approval of the subdivision. Not only did the Board grant a 30-day extension, but the Board also requested that Mr. Chase meet this evening in order to present the Board with a plan and timetable for any improvements deemed necessary by the Public Works Director in an effort to stabilize the new roadway as well as the adjacent property. In addition to the plan and timetable, the Applicant is to present a renewed Letter of Credit (current expiration is 10/17/09) to cover all costs associated with the construction of the new roadway.

Note: On August 14, 2007, the Planning Board approved a Seven lot subdivision with conditions. On November 13, 2008, a one-year extension for compliance with the condition to remove the home on Lot 7 was granted. The extension was granted from the original date of approval (8/14/07).

The property is owned by Francis and Ellen Chase, located off Irish Hill Road in the R-4 (residential/agricultural) district, shown on Tax Map 237 as Lot 36.

Francis Chase addressed the Board expressing concern that the Town's Superintendent of Public Works was not present at the meeting. Mr. Chase noted that he had recently met with the Superintendent and Mark Bates (Road Committee Chair) at the site to discuss the condition of the road as constructed to date. During the meeting, Mr. Chase had agreed to "revamp" the drainage by removing the silt fence and hay bales.

Mr. Chase also submitted a letter from David Sands, President of Builders & Homeowners Mortgage Corporation, agreeing to extend the letter of credit provided the Board does not require the removal of the home on Lot 7. Members briefly discussed the fact that the removal of the home was a condition of approval of the subdivision. Should the home remain the subdivision would not comply with the Town's Ordinance.

Mrs. Robertson noted that she had spoken with the Superintendent concerning the meeting with Mr. Chase. It was her understanding that the items outlined in the Superintendent's memo to the Planning Board, dated October 30, 2008 need to be addressed at some point. Mr. Chase agreed, stating that the Superintendent's immediate requests did not include all of the items listed in the memo; however, at some point during construction all remaining items would be addressed.

Doris Filson of Irish Hill Road addressed the Board as an abutter expressing concern with the amount of drainage in the area and how it has washed out the entrance to the subdivision. She did not believe that the subdivision would be viable due to its proximity to the highway. She suggested that the Planning Board should not allow Mr. Chase to move forward with his project.

Mr. Hemingson noted that at the previous meeting the Board requested that Mr. Chase meet with the Board this evening so to give him an opportunity to provide the Planning Board with a plan and timetable for stabilization of the roadway. She expressed concern because Mr. Chase has not given the Board a timetable as to when the improvements will be made to the road. At this point in time, the Planning Board can insist that the house on Lot 7 be removed as it's location is in violation of the Town's Ordinance; the Town can call on the letter of credit to complete the project, or table any further action so that the Superintendent of Public Works can be present and Mr. Chase can present a time table for improvements.

Chairman Ellsworth expressed disappointment with the fact that Mr. Chase is unwilling to provide the Board with the time table for improvements, noting that at the previous meeting it seemed that a majority of the Board was more concerned about the stability of the base of the road than the removal of the home. This is why the Board allowed for the 30 day extension and requested a plan of action for improvements to the roadway. In response, Mr. Chase advised that he will be meeting next week with David Sands and his contractor with respect to moving forward with the project. Mr. Chase could not commit on a time table for stabilizing the roadway as he was unsure as to whether Mr. Sands would provide the necessary funds.

Mrs. McCarthy believed that the Board had provided Mr. Chase with sufficient opportunity comply with the condition of approval (removal of the home on Lot 7), by already granting a one year extension and then a 30-day extension. Since Mr. Chase was unable to provide the Board this evening with a plan or time table for stabilizing the roadway Mrs. McCarthy suggested that the Board should vote to deny any further extension.

Brief discussion ensued as to the affects on the subdivision approval should the Board not grant an extension for the removal of the house on Lot 7. Mr. Britain stated that any decision not to grant the extension would mean that the subdivision is null and void. The condition imposed on August 14, 2007 was a condition of approval.

Mrs. Hemingson, seconded by Mr. Britain, moved to deny Mr. Chase's request for an extension of time to remove the home on Lot 7. With seven members voting, six voted in favor of the motion (McCarthy, Britain, Hemingson, Taylor, Ellsworth and Wilkey) and one voted in opposition (Bradstreet). The motion passed; therefore, the extension was noted granted.

At this time, Chairman Ellsworth on behalf of the Board informed Mr. Chase that his subdivision is no longer valid; however, he does have the right to reapply for subdivision to the Planning Board. Mr. Chase thanked the Board for their time.

III. Adjournment.

With no other business to come before the Board, Chairman Ellsworth declared the meeting adjourned at 8:33 PM. The next regular scheduled meeting of the Planning Board is Tuesday, October 13, 2009, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

Upon finding that an application meets the submission requirements, the Planning Board will vote to accept the application as complete and a public hearing on the merits of the proposal will follow immediately. Should a decision not be reached at the public hearing, the application will remain on the Planning Board agenda until such time as it is either approved or disapproved.

The Planning Board reserves the right to adjourn the public hearing at 11:00 PM. All remaining applications that have not been reviewed will be rescheduled for review at the Planning Board's next scheduled public hearing.

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.

