

HOPKINTON PLANNING BOARD
MINUTES
July 12, 2011

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting/hearing of Tuesday, July 12, 2011, beginning at 7:00 PM in Hopkinton Town Hall. Members present: Michael Wilkey, Celeste Hemingson, Jane Bradstreet, Edwin Taylor and Cettie Connolly. Members absent: Vice Chairman Timothy Britain, Bethann McCarthy and Ex-Officio George Langwasser.

I. Other Business.

- (a) Site Plan Review Regulations (Draft) – Review of a draft copy of the Site Plan Review Regulations was deferred to the August 9, 2011 meeting.

II. Review of Minutes and Decision of June 14, 2011.

Mrs. Hemingson, seconded by Mrs. Connolly, moved to approve the Minutes of June 14, 2011 as presented. With five members voting, all five voted in favor (Wilkey, Taylor, Hemingson, Connolly and Ellsworth).

Mr. Wilkey, seconded by Mrs. Connolly, moved to approve the Notice of Decision of June 14, 2011 as presented. With five members voting, all five voted in favor (Wilkey, Taylor, Hemingson, Connolly and Ellsworth).

III. Conceptual Consultation(s). There were no conceptual consultations.

IV. Application(s).

#2011-4 Robert J. & Kimberly A.R. Saunders Three (3) lot subdivision of property located at 2398 Hopkinton Road in the R-3 district, shown on Tax Map 240 as Lot 12. The new Lot 12 will consist of 2.77 acres and contain an existing residence, private well and septic system. A Variance was granted to allow .22 acres of wetlands to be included in the minimum lot size. The purpose of the Variance was to allow the rear boundary to be established along an existing stonewall. Lot 12.1 will consist of 9.79 acres and Lot 12.2 will consist of 11.52 acres. Both, Lots 12.1 and 12.2 will be accessed by way of a shared driveway. All lots will be serviced by private wells and septic systems. Lot 12 will require NH Department of Environmental Services (NHDES) subdivision approval due to the fact that it is less than five (5) acres.

Note: Application was accepted as complete and for consideration at the Board's June 14, 2011 meeting. Review of the application is a continuation of the Board's June 14, 2011 hearing.

Chairman Ellsworth advised that at 6:00 PM, this evening, the Planning Board walked the Saunders' property. During the site visit members walked the route of the proposed driveway and a considered alternative route, closest to the Dearborn's, and a third alternative route between the Dearborn's and the Saunders' existing driveway. Those present were: Chairman Bruce Ellsworth, Michael Wilkey, Celeste Hemingson, Edwin Taylor and Cettie Connolly. Following the site visit, the Board reconvened at the Town Hall.

After having walked the property, Chairman Ellsworth inquired as to whether members wished to consider alternative routes for the driveway for Lot 12.2. Mr. Wilkey was in favor, noting that he still has concerns with the length and steep slope of the proposed driveway and the ability of emergency vehicles to access the property.

Mr. Taylor referred to the NH State Building Code that includes the National Fire Protection Association (NFPA) 101 Life Safety Code that is enforced by the Fire Department. In the event that someone wants to build a structure the Life Safety Code outlines the requirements for access and water supply, among other things. See attached copy of Chapter 18 entitled, "Fire Department Access and Water Supply".

Chairman Ellsworth noted that in reading the requirements of NFPA 101 it appears that the Authority Having Jurisdiction (AHJ) is allowed to require additional fire protection. Chief Schaefer concurred, stating in light of the new legislation prohibiting Town's from requiring sprinkler systems for single family residences he has reached out to the State Fire Marshal's Office for clarification concerning his ability to require sprinklers. Chairman Ellsworth noted that the legislation only restricts Planning Board's from requiring sprinklers as a condition of approval of a development. Mr. Taylor concurred, noting that there appears to be confusion concerning the new legislation. He believed the intent is to prevent towns from requiring sprinklers for those structures that would not necessarily be required to have sprinklers under NFPA 101. For example, single-family residences are not required to have a sprinkler system installed, unless required by the AHJ; however, multi-family dwellings are required to have a sprinkler system.

At this time, members discussed whether the State Building Code is a law or rule and whether it is the Planning Board responsibility to insure that a property owner is in compliance.

Mrs. Hemingson stated that subdivision plan complies with zoning and subdivision requirements. Enforcement of the State code (NFPA 101) is not the responsibility of the Planning Board. However, Chairman Ellsworth stated that the location and type of driveway is an "inherent part of the decision making process".

Mr. Saunders addressed the Board stating that if everyone had to comply with the standards then all the property on the back side of Gould Hill could not be built on. He then noted the steepness of his current driveway as a comparison.

Mr. Taylor stated that he understood during previous discussions that Mr. Saunders didn't necessarily agree with the Fire Chief's request for a sprinkler system to be installed in the residence. However, NFPA 101 permits the requirement for an adequate water supply to be provided for a house that will be setback and at a grade that is being proposed by the Applicant.

In reviewing the plans and walking the site, Mr. Taylor suggested that a straight route to the residence would be the easiest way to access the residence; however, the grades would be high. Mr. Saunders stated that the proposed grade of the driveway, depending upon the location (route), range from fifteen (15) to sixteen (16) percent.

Fire Chief Rick Schaefer stated that even if the Applicant agrees to sprinkler the residence he would still have concerns with the driveway and the Fire Department's ability to access the residence for medical calls or a chimney fire. A sprinkler system doesn't necessarily solve the issue of access, but does address concerns should there be a fire at the residence.

Mrs. Hemingson believed that the Applicant could meet the Code (State Building Code NFPA 101) by bulldozing or leveling the hill. She then suggested that the Planning Board approve the application and let the AHJ work with the homeowner in addressing the Code.

Mr. Saunders inquired about the grade permitted in the Town's road design standards. Chairman Ellsworth stated ten (10) percent.

Mrs. Connolly suggested that if the application is approved that it be with a condition that the driveway complies with a specific grade. Chairman Ellsworth stated that the condition could be that the property owner complies with all relevant state and federal rules. He suggested that approval with the condition would leave the Planning Board out of any opportunity for litigation. Mr. Taylor concurred, noting that the Planning Board has gone above and beyond where they would normally go in trying to be helpful, including a site visit and discussions concerning alternative routes for the driveway.

There was no one present wishing to give public testimony.

Mrs. Connolly, seconded by Mrs. Hemingson, moved to approve Application #2011-4 with the condition that the use of the property meets all local, state and federal laws, rules and regulations. Motion carried unanimously (Wilkey, Taylor, Hemingson, Connolly and Ellsworth).

Mrs. Bradstreet joined the Board for the remainder of the meeting.

V. Other Business – Continuation.

(b) Driveway Regulations –Mrs. Robertson will present a comparison of driveway regulations from other towns for review and comment at the August 9, 2011 meeting.

VI. Adjournment.

With no other business to come before the Board, Chairman Ellsworth declared the meeting adjourned at 8:05 PM. The next regular scheduled meeting of the Planning Board is Tuesday, August 9, 2011, 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 Planning 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.