



Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • www.hopkinton-nh.gov

Tel: 603 746-3170

Fax: 603 746-2952

HOPKINTON PLANNING BOARD MINUTES DECEMBER 10, 2013

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting of Tuesday, December 10, 2014, beginning at 6:30 PM in the Hopkinton Town Hall. Members present: Vice Chairman Timothy Britain, Celeste Hemingson (arrived late), Jane Bradstreet, and Michael Wilkey. Member(s) absent: Ex-Officio George Langwasser, Cettie Connolly and Alternate Rich Steele.

I. Review and adopt the Minutes and Notice of Decision of November 12, 2013.

Mrs. Bradstreet, seconded by Mr. Britain, moved to APPROVE the Minutes of November 12, 2013 with a correction on page twelve, paragraph four by inserting the word, "outweigh" in place of "out way". Motion carried unanimously (Britain, Bradstreet, Wilkey and Ellsworth).

Mr. Britain, seconded by Mrs. Hemingson, moved to APPROVE the Notice of Decision of November 12, 2013 with corrections on page two, paragraph two by inserting the word, "outweigh" in place of "out way" and in paragraph four by inserting "90 feet" in place of "100 feet". Motion carried unanimously (Britain, Hemingson, Bradstreet, Wilkey and Ellsworth).

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

III. Application(s).

#2013-13 Chalk Pond Investments, LLC. Jennifer McCourt of McCourt Engineering addressed the Board on behalf of Chalk Pond Investments, LLC, presenting an amended application for a two lot subdivision of property located off Pleasant Pond Road in the Towns of Hopkinton and Warner. The property consists of 97.4 acres with 1.0 acres and road frontage in Hopkinton and 96.4 acres in Warner. The amended proposal is to create a 2.82 acre parcel with .60 acres being located in Hopkinton and 2.22 acres in Warner, and to construct 60 feet of Town road to be located in Hopkinton and used as frontage for the remaining 94.51 acres in Warner. The property located in Hopkinton contains an existing residence and is in the R-3 district, shown on Tax Map 206 as Lot 21. The property located in Warner is land-only and is in the R-2 and OR-1 districts, shown on Tax Map 3 as Lot 22. This was a continuation of the November 12, 2013 hearing.

Mrs. McCourt reviewed the amended subdivision plan and road design. Note: Original subdivision plan and road design was for the following:

Two lot subdivision of property located off Pleasant Pond Road in the Towns of Hopkinton and Warner. The property consists of a total of 97.4 acres with 1.0 acres and road frontage in Hopkinton and 96.4 acres in Warner. The proposal is to create a 2.75 acre parcel with .69 acres being located in Hopkinton and

2.06 acres in Warner, and to construct 330 feet of Town road to be used as frontage for the remaining 94.16 acres in Warner.

Mrs. McCourt noted that the amended road design is of a hammerhead design which was previously submitted as a conceptual plan. While the proposed road was to be in Hopkinton and Warner, the newly designed road is located in Hopkinton only. Furthermore, the amended road design required that the dimensions of the proposed two lots be adjusted so to comply with the dimensional and density requirements for Warner and Hopkinton. Mrs. McCourt explained that the lot with the existing residence located in Hopkinton is being considered a Hopkinton lot and therefore has been designed to conform to Hopkinton's zoning requirements with respect to frontage and acreage. The acreage of the lot was adjusted so to ensure that there is sufficient upland to conform to the zoning requirements. While the entire frontage is located in Hopkinton, the lot acreage straddles Hopkinton and Warner. As a result, they have "borrowed" land from the Warner side of the lot so to meet Hopkinton's acreage requirement. With respect to the land-only lot, Mrs. McCourt stated that the lot that will have .60 acres in Hopkinton and 94.51 acres in Warner is being considered a Warner lot since the use of the lot will have to take place in Warner as there isn't sufficient acreage in Hopkinton to comply with the setback requirements. The land-only lot conforms to Warner's dimensional requirements of two acres and 200' of road frontage. The frontage for the Warner land-only lot is entirely within Hopkinton as the proposed new road will only be located in Hopkinton.

Mrs. McCourt advised of a recent meeting with the Warner Planning Board, in which they reviewed the amended plans expressing concern with the proposed location of the driveway to the existing residence being located off of the hammerhead. In particular, they were concerned with the proximity of the driveway to the intersection of Pleasant Pond Road. As a result, Mrs. McCourt presented a revised plan showing the relocated driveway to be off of Pleasant Pond Road meeting the requirements in Hopkinton's Driveway Regulations.

With respect to drainage calculations for the road and proposed subdivision, Mrs. McCourt stated that the drainage design will remain as originally presented with an infiltration pond that could be used in the future should the road be extended.

Mrs. Hemingson questioned whether it was Mrs. McCourt's belief that because the use of the land-only lot will occur in Warner, Warner's dimensional requirements for road frontage can be used. The applicable zoning is based on the location of the use, rather than the location of the frontage. Mrs. McCourt replied yes, advising that it is her understanding in reading NH RSA 674:53(l) that she is able to utilize the requirements of one town in another because the use will solely be in Warner, rather than Hopkinton. Mr. Britain disagreed, stating that it is his understanding that it is permissible to utilize land in another town to satisfy requirements of another; however, he believed that the stricter of the requirements of the two towns would need to be met. Furthermore, in this particular case, since the proposed road and frontage will be entirely within Hopkinton the frontage requirement for Hopkinton must be met. Mrs. McCourt disagreed, explaining how she is creating one lot in Hopkinton and one lot in Warner. Note: Both lots having frontage in Hopkinton only. Vice Chairman Britain offered a different scenario in which one could argue that because of the road frontage being only in Hopkinton that the lots being created are both Hopkinton lots and must comply with Hopkinton's requirements. Either way, he believed that the frontage requirement for Hopkinton must be met as it is stricter than the requirement of Warner and because the frontage is solely in Hopkinton.

Christian Hartshorn, owner of Chalk Pond Investments, LLC, addressed the Board reiterating what had been said by Mrs. McCourt in that the use of the land-only lot will be in Warner and therefore the zoning requirements for Warner must be met. Again, Mr. Britain respectfully disagreed, stating that

the frontage will be located in Hopkinton and the frontage requirement of Hopkinton is stricter than in Warner; therefore, Hopkinton's frontage requirement must be met.

Mrs. Hemingson inquired as to why the Applicant had abandoned the original subdivision plan which included 330 feet of road to be located in both Hopkinton and Warner. It was noted that the original plan satisfied Hopkinton's frontage requirement. Frontage was located along Pleasant Pond Road and the proposed new road. In response, Mrs. McCourt advised that after previously hearing concerns of the Planning Board and abutters with respect to future use of the lot, condition of Pleasant Pond Road should a future development be proposed, and the responsibility of maintenance of the road, she felt it would be best to simplify the subdivision by reducing the road length. She noted that it was her understanding from speaking with Planning Director Karen Robertson that there had been past precedence for the Town to accept a hammerhead as a turn-around at town lines. In response, Mrs. Hemingson suggested that the Applicant utilize the original subdivision plan as the amended plan does not comply with Hopkinton's frontage requirement. Mr. Britain concurred, noting that not only is the frontage requirement not met on the amended plan, but the minimum width required at the setback line for a lot is not met.

Chairman Ellsworth asked Mrs. McCourt to again review what aspects of the original subdivision plan that she believed to be "unworkable". In response, Mrs. McCourt listed the following:

1. Impact of any future development on Pleasant Pond Road;
2. Maintenance of the proposed road as it was proposed in Hopkinton and into Warner;
3. Road standards to be adhered too, Hopkinton or Warner, and
4. Location of the driveway for the existing residence.

Mrs. McCourt then noted that the Applicant had applied to Hopkinton and Warner Zoning Boards of Adjustment for a Variance and had been denied.

At this time, Mr. Hartshorn requested that the Board take action on the amended plan.

Mr. Britain, seconded by Mrs. Hemingson, moved to ACCEPT for consideration and as complete the amended application. Motion carried unanimously (Britain, Hemingson, Bradstreet, Wilkey and Ellsworth).

There was no one present wishing to offer public testimony.

Mr. Britain, seconded by Mrs. Hemingson, moved to DENY application #2013-13 as presented due to the fact that the proposed subdivision violates Hopkinton's Zoning Ordinance, Section IV, subsection 4.2, 300' frontage requirement for the R-3 district and subsection 4.3(g), minimum lot width at the front yard setback line. Motion carried unanimously (Britain, Hemingson, Bradstreet, Wilkey and Ellsworth).

Lastly, Mr. Britain stated that it was his understanding that the Applicant submitted the amended plan in place of the original plan; thereby, withdrawing the original proposal. Mrs. McCourt replied yes.

At this time, Mrs. Bradstreet excused herself from the meeting for another commitment.

#2013-14 New Cingular Wireless PCS, LLC ("AT&T"). Application for a Conditional Use Permit and Site plan Review to erect a one hundred foot (100') monopine and associated equipment on property owned by Frank & Lois Mrozek, located at 88 Little Frost Road in the R-4 district, shown on Tax Map 237 as Lot 45. This was a continuation of the November 12, 2013 hearing.

At the request of the Applicant, application #2013-14 was withdrawn without prejudice.

- IV. Public Hearing – Capital Improvements Plan Revisions (2014).** Review and adopt revisions to the Capital Improvement Plan (CIP) for years 2014-2019. Note: The CIP is one component of the Town's Master Plan that is annually revised to reflect changing demands, new needs and assessment of priorities.

Planning Director Karen Robertson provided a brief overview of the capital projects proposed by the various departments. She indicated that a majority of the projects are as proposed last year with the exception of the timeline for replacement of equipment. For example, the fire at the Highway garage also destroyed vehicles. As a result, the insurance company paid for the replacement of those highway vehicles which otherwise would have been scheduled for replacement in later years.

Additionally, Mrs. Robertson explained that the capital projects shown and year of expenditure is as requested by the departments. Since that time the Board of Selectmen have met and have made revisions to the yearly appropriation or year of purchase for some items. These changes were made when considering the Town's twenty-year capital needs and the need to minimize the impact to the Town's tax rate.

After brief discussion, the Planning Board prioritized those projects that are recognized in the Town's Master Plan.

There was no one present wishing to offer public testimony.

Mr. Britain, seconded by Mrs. Hemingson, moved to ADOPT the revisions to the Capital Improvements Plan (CIP) for years 2014-2019 without endorsement of any projects listed. Motion carried unanimously (Britain, Hemingson, Wilkey and Ellsworth).

- V. Public Hearing – Zoning Amendment (2014).** Amend Section III, 3.10 Personal Wireless Service Facilities so that it is consistent with the revisions to NH RSA 674:33, which exempt collocation on or modifications to an existing structure from review by the Planning Board, unless the collocation or modifications cause a "substantial change" to the structure. A determination of the extent of change is to be made through a process involving the issuance of a building permit.

Discussion ensued concerning the legislature mandating what action Town's must take with respect to collocation on or modifications to existing Personal Wireless Service Facilities. Those present expressed disappointment in the new definition of "substantial Modification" which is defined as an increase of the vertical height of a tower by either more than 10 percent or the height of one additional array with separation from the nearest existing antenna not to exceed 20 feet, whichever is less. It is understood that anything less than the dimensions stated would be considered a "modification" and would not allow oversight by the Planning Board. As the process of issuance of permits for collocation and modifications is being mandated for all communities, the Board agreed that for consistency purposes the change should be reflected in Hopkinton's Zoning Ordinance.

There was no one present wishing to offer public testimony.

Mr. Britain, seconded by Mrs. Hemingson, moved to RECOMMEND to the Voters adoption of the amendment as proposed. Motion carried unanimously (Britain, Hemingson, Wilkey and Ellsworth). Note: A full-text of the proposed amendment is available at the Town Hall, Town Clerk's Office and on the Town's website www.hopkinton-nh.gov.

VI. Adjournment. With no other business to come before the Board, Chairman Bruce Ellsworth declared the meeting adjourned at 7:30 PM. The next regular scheduled meeting of the Planning Board is Tuesday, January 14, 2014, at 6:30 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.