

2 **TOWN OF HOPKINTON**
4 **PLANNING BOARD MEETING**

6 **June 3, 2009**
7 **7:00 P.M.**

8 **Hopkinton Town Hall**
9 **One Town House Road**
10 **Hopkinton, Rhode Island 02833**

12 **CALL TO ORDER:** The June 3, 2009 Hopkinton Planning Board meeting was called to order
14 at 7:04 P.M. by Chairman Alfred DiOrio.

16 **MEMBERS PRESENT:** Alfred DiOrio, Howard Walker, Ray Cox and Joseph Escher.
18 Hazel Douthitt arrived at 8:25 P.M.

20 Also present were: James Lamphere, Town Planner; Scott Levesque, Town Solicitor;
Harvey Buford; Conservation Commission.

22 *Mr. DiOrio said that the capacity for this building has been exceeded. In order to*
24 *conduct business, he asked for volunteers to step outside so that business can be*
26 *conducted for the Cindrach application only. They will then have a recount and decide*
how to proceed from that point forward. A group leaves.

28 *Mr. DiOrio recuses and Mr. Walker takes the chair.*

30 Mr. Walker said the first item on the agenda is usually the approval of the minutes of the prior
meeting. Since the Chairman has recused himself, that item will be moved to later in the agenda.

32 **NEW BUSINESS**

34 **Pre-application – Residential Compound – Cindrach Residential Compound, Plat 5**
– Lot 5, Tomaquag Road. Fred Cindrach, applicant.

36 George Dupont, Professional Engineer and Land Surveyor and Mr. Cindrach were
present.

38 Mr. Dupont said the proposal is a sixteen (16) acre lot that they want to convert to three
40 (3) building lots. There is an existing home on one of the lots. He will be dividing the 16
42 acres into two (2), two plus acre lots; the rest of the parcel will be a twelve (12) acre lot
that the applicant will retain ownership of. It is flat and level land. Water table
44 verifications are done. One lot has a long, thin strip running for nine hundred (900) feet
into the rear of the lot. The rear of the parcel is not going to be touched. There is a little
46 speck of wetland in the rear. The biologist said there will be no disturbance within five
hundred (500) feet of that wetland; he thinks it is insignificant. The nine hundred (900)
foot strip is to ensure the lot that has the existing house has enough acreage to qualify as a
lot. Mr. Dupont said he does not like it but it was about the only feasible way they could

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2 get the acreage in for the existing house. The gravel drive is a right-of-way to serve the
4 two rear lots; it would have thirty (30) feet of frontage on each lot.

6 Mr. Cindrich said to refer to page 4.

8 Mr. Dupont said the nine hundred foot strip is all part of lot 1. They will limit the area of
10 disturbance, ensuring no one will go into the back and cut the trees down.

12 Mr. Cindrich said the strip that goes from the front of the lot to the back is simply a piece
14 of land; that was the only way they could make the lot two acres.

16 Mr. Dupont said the road stops at about two hundred thirty (230) feet. The circles
18 represent the hundred (100) foot radius around existing wells but act as a guide to where
20 the active growth would end. The entire sixteen (16) acres is a long, skinny piece of land.

22 Mr. Cindrich said that to make the front lot where the existing house is, two acres, and to
24 keep the road short, they attached the strip which is like a walking path to the back. The
26 second lot in may go to abutters. They meet zoning regarding acreage and layout.

28 Mr. Cox asked if the road will be private and will be maintained by the applicant.

30 Mr. Cindrich said it will be private.

32 Mr. Walker said this is Pre-application so they are not asking for any relief.

34 Mr. Dupont said they are required to have thirty (30) foot frontage per lot and fifty (50)
36 feet of frontage on the main road.

38 Mr. Cindrich said he hasn't seen any wetlands; they do not have the wetlands flagged.

40 Mr. Dupont said they don't think there are any wetlands or any standing water.

42 Mr. Dupont said if the wetlands are an issue, they will get the exact area of the wetlands.
44 Wetlands are indicated on the topographic plan; roughly 1.8, 1.9 acres. The biologist is
46 from Connecticut so he is not that familiar with the area. Mr. Dupont believes he saw
48 some bushes and thought it must be wetland.

50 Mr. Cindrich added, if he even went out there.

52 Mr. Lamphere said he looked at the plan again. The property is 16.38 acres with
approximately 1.9 acres of wetlands, which does not leave the fifteen (15) acres needed
for three lots in a residential compound. Until the wetlands issue is cleared up, it can not
go as presented.

Mr. Dupont said they will fine tune the wetlands area.

Mr. Lamphere said he recommended in his memo that the right-of-way extend beyond
the two driveways, if this plan could go forward as is.

Mr. Walker told the applicant that until they get the wetland issue resolved, they cannot
go forward.

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2 Mr. Dupont said they will have the wetlands flagged to determine the exact area.

4 Mr. Walker told the applicant to get back to the planner when they the wetlands verified,
and the Board will look at the application again.

6 Mr. Cox asked if they plan on putting houses on the other two lots. His concern is fire.

8 Mr. Dupont said there is a possibility that three abutters may want to buy the two acre lot.

10 Mr. Cox said he would like to see something in writing from Chief Williams.

12 Mr. Cindrlich said he will have the wetlands flagged for accurate acreage.

14 *Mr. DiOrio returns and resumes Chair.*

16 **OLD BUSINESS**

18 **Review/Update & Request for Extension of Preliminary – Major Subdivision –**
20 **Kenney Hill Farm, Plat 20 – Lot 1A, Kenney Hill Road and Grassy Pond Road.**
Hopkinton Associates, Inc. LLC, applicant.

22 Mr. Levesque said he spoke with Mr. Brunero, the applicant’s attorney, and was
24 informed that the applicant would be requesting a one month continuance for the
application at which time the matter may possibly be resolved.

26 Mr. Marek requested to speak.

28 Mr. Levesque said that since the applicant is not here, there should not be any discussion
He told Mr. Marek that at this point we are only here to entertain the request for the
30 continuance and suggested that Mr. Marek return in July when the applicant is present.

32 MR WALKER MOVED THAT THE KENNEY HILL FARM REVIEW AND UPDATE BE
CONTINUED TO THE JULY 1 MEETING.

34 MR. ESCHER SECONDS THE MOTION.
Messrs. Walker, DiOrio, Escher and Cox approve.
36 *Motion passes.*

38 **APPROVAL OF MINUTES:** April 1, 2009 and May 6, 2009 meetings.

40 MR. WALKER SAID WITH RESPECT TO BOTH THE APRIL 1 AND MAY 6 MEETINGS,
HE MOVED THAT WE SUBSTITUTE THE RECENTLY RECEIVED STENOGRAPHIC
42 TRANSCRIPT FOR THE DRAFT VERSIONS OF THE LOVE’S TRAVEL STOP AND
COUNTRY STORE SECTION OF THE MINUTES, AND WITH THAT CHANGE, WE
44 APPROVE THE MINUTES AS CIRCULATED.

MR. COX SECONDS THE MOTION.
46 Messrs. Walker, DiOrio, Escher and Cox approve.
Motion passes.

48 *Mr. DiOrio calls the public in from outside for a recount.*

50

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2 **Master Plan, con't. – Major Land Development – Love's Travel Stop and Country**
4 **Store, Plat 7 – Lot 59 Main Street. Love's Travel Stop and Country Store,**
applicant.

6 Mr. DiOrio said he and the Board are delighted to see everyone this evening, but,
8 unfortunately there is a capacity issue of more than 73 folks. He continued, since
10 you all have every right to be here and hear every word that goes on, there is little
12 alternative but to postpone this evening's meeting and schedule another more
suitable location. He asked for a motion to continue to the regular Planning Board
meeting on July 1, 2009, at 7:00 P.M., location to be announced.

12 MR. WALKER SO MOVES.
14 MR. ESCHER SECONDS THE MOTION.
Messrs. Walker, DiOrio, Escher and Cox approve.
16 *Motion passes.*

18 **Advisory Opinion – Proposed Amendments to the Groundwater and Wellhead**
20 **Protection Map and Ordinance**

22 Mr. Lamphere presented the existing groundwater map, approved by the town, March 22,
24 2004. The entire town is in either a primary or a secondary protection zone. A primary
zone consists of an area that is referred to as a major stratified drift aquifer and recharge
area. In addition to that defined area, which comes from DEM, we also have community
wells and non-transient, non-community wells, all located in a primary protection zone,
26 as indicated on the existing map. The Town Council authorized the update of this map.
Since that map was approved, we have four additional wells that should be included: one
28 community well at Saugatucket Springs and three wells by Bedrock Crystal LLC which
are non-transient, non-community wells. The third map is the proposed aquifer
30 protection map that will replace the other two maps. It has been made more user-friendly
by including the parcels and all public wells in town: community, non-transient, non-
32 community.

34 Mr. Walker asked if it is possible to explain the difference between a transient and a non-
transient, non-community well.

36 Mr. Lamphere explained a public community well is for year round residential use with
38 15 connections and 25 users for at least two months of the year. A non-community well
is not year round use. The non-community, non-transient wells that are on the map
40 now, is for 25 of the same people for more than six months a year. An example would be
a factory with more than 25 people year round but are not residents. A transient, non-
42 community well is characterized by a restaurant where you do not serve 25 of the same
persons over six months of the year. Mr. Lamphere asked the Board if we should take
44 the additional step and include transient, non-community wells within the primary
protection zone.

46 Mr. DiOrio asked for an example of a non-community, non-transient well.

48 Mr. Lamphere said a factory, like Greene Plastics, for example.

50

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2 Mr. DiOrio said, then a transient well would be a restaurant. He concern would be that
4 none of these descriptions has anything to do with the water supply, but everything to do
6 with how it is used. If we don't protect them all and the use changes, the water supply is
at risk. Not seeing how the water supply is to be used in the future, he asked, why not put
them all under the protective umbrella?

8 Mr. Lamphere said you might want to consider the future development that may occur.
You have to weigh economic development issues.

10 Mr. DiOrio asked, because now the radius is larger?

12 Mr. Lamphere responded, with a transient, non-community well, you would be
14 precluding service stations and gas stations. Transient wells are tested for bacteria and
nitrates only. The others wells mentioned are tested for VOC, herbicides, pesticides, etc.,
16 and are much more rigorously tested because of the population that they are trying to
protect. A very small amount of nitrates is a very serious health risk for infants and
18 therefore test for nitrates in restaurant wells. Transient wells are quite often in bedrock.
Bedrock wells are fed by fractures and sources of contamination can come from miles, so
20 how do you protect those wells? Transient wells also come online and offline quite often
as restaurants go out of business. A property owner who lives next door to one of those
22 wells may be precluded from doing something on their land. We should think about how
we would potentially be adversely affecting other property owners in the area and what
24 gain is to be achieved.

26 Mr. DiOrio asked what kinds of prohibitions we are talking about. If we are prohibiting
service stations, that's probably a good thing. If we are prohibiting someone from...

28 Mr. Escher said fertilizing the grass.

30 Mr. DiOrio continued, or putting on an addition, or for example, if development similar
32 to what we currently have in place at Exit 1, wants to come in and that he wouldn't
necessarily want to prohibit. He asked, what are we prohibiting?

34 Mr. Lamphere responded, primarily underground storage tanks. DEM includes
36 community wells on their groundwater protection maps. They don't go as far as the town
does by including the non-transient, non-community wells. They do prohibit
38 underground storage tanks in the wellhead protection area of community wells. Ninety-
nine percent (99%) of the people in Hopkinton get their drinking water from the ground
40 and we would have justification to protect the wells in the town.

42 Mr. Escher said the other thing mentioned was drinking water in restaurants. A lot of
people eat in town so the wells are not as transient as in other communities.

44 Mr. Walker said it seems that before the Board makes a recommendation and the Council
46 makes a decision, that we be very careful that the law of unintended consequences does
not kick in. The Board ought to give very careful consideration to the kinds of
48 development that we are trying to get at Exit 1 and Exit 2, and what might be
unintentionally prohibited if we protect all of the wells in this way. We need to go
50 beyond the obvious or manufacturing facilities of various kinds could present issue. Do
we want to present these kinds of issues, especially with economic development as
52 important as it is to the town?

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2 The Pastor of the First Hopkinton Baptist Church in Ashaway said they just spent over
4 two and a half years getting a well that is approved by the state. They are required, as
6 restaurants are, for the fifty people that come in every week for a community dinner,
8 to test for nitrates.

10 Mr. Lamphere said he will have to do more research for the next meeting as to what the
12 implications would be.

14 Mr. DiOrio that is a valid point. If we are prohibiting the right things, we are moving in
16 the right direction. If we are eliminating things we might want, we might need to back up
18 a bit.

20 Mr. Buford said a there isn't a good breakout of manufacturing types in the district use
22 tables; the broad categories be updated. The aquifer protection permit review process
24 gives us a lot of control.

26 Pat Fontes said as far as she knows, an aquifer protection permit has never been denied.
28 It depends on how bad a bad thing is as to whether you regret it. You must weigh how
30 bad is the bad compared to the good.

32 Councilor Barbara Capalbo said non-community, transient wells in restaurants are not
34 covered and have a lot of non-transient people often eating in them. She would like
36 stronger protection for them, but not block economic development. She would like to
38 strengthen non-community, transient wells with more testing.

40 Mr. DiOrio asked if the Council grants licenses annually to restaurants.

42 Councilor Capalbo responded yes.

44 Mr. DiOrio said that may be a great way to see that their testing conforms to town criteria
46 that the town adopts.

48 Councilor Capalbo would like more stringent testing.

50 Mr. Lamphere said it is fine to test water coming out of that well to protect the people
52 that are using that well but it would not protect wells from water in the ground from
being contaminated.

Mr. DiOrio said we are wrestling with that as a premise of our entire issue. Even if you
threw a net over the town, water comes from outside our boundaries.

Mr. Buford said we now exclude residential and existing grandfathered businesses. Two
gas stations in Ashaway are in a primary zone with restaurants directly across from them.
Holly Tree Campground is a permanent community where residents stay all season. The
radius of some wells varies with the pumping rate. DOH licenses the public well but
DEM determines radius. Frontier Campground's radius was changed and now covers
a large part of the Love's parcel but is listed as non-transient, non-community well.

Councilor Capalbo asked when a use is grandfathered and then sold, would they need
new testing or are they grandfathered because the prior owner was.

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2 Mr. DiOrio and Mr. Levesque said their opinion is that the use is grandfathered.

4 Council President Tom Buck said when you redo your house by 52% you have to bring
the entire house up to code. Wouldn't a gas station fall under the same thing?

6

8 Mr. Levesque said it is an issue of non-conforming use. If it is the same use that goes
forward in history and beyond, it can continue. Once the use changes it can not.

10 Mr. Lamphere asked, do we update the existing groundwater map using the policies that
we have in place right now, or do we change the policy and add the transient, non-
12 community wells.

14 Mr. Escher asked if there should be changes to the use table.

16 Mr. Levesque suggested, if you decide tonight to recommend to the Council to adopt the
map under our current policy, we are prepared to do that.

18

20 Mr. Lamphere said they are ready to roll. The notice list is ready to send out. They
should at least bring our current map into the present tense.

22 Mr. DiOrio said then we can pursue this other iteration. That make the process two steps,
but at least we get something current approved by the Town Council.

24

Mr. Walker said it works for him.

26

28 Mr. Buford said the Conservation Commission has worked on the original ordinance of
the map and might be willing to take a look at it and make some suggestions. Most of the
wells coming in are in the primary zone because that is where the water is.

30

32 Mr. Cox said we should be concerned with salt from the highway. He can't drink the
water from his well. If we are trying to protect the water, we have to start with
eliminating the salt. We talk about underground tanks but we are letting the salt go
34 through.

36 Mr. Buford said there is nothing that prohibits the state or town from salting.

38 Mr. DiOrio said we have a consensus that moving a positive advisory on the revision to
the wellhead protection map that adheres to the current policy is agreeable to the Board.

40

MR. WALKER SO MOVES.

42

MR. COX SECONDS THE MOTION.

Messrs. Walker, Cox, DiOrio and Escher approve.

44

Motion passes.

46

Mr. DiOrio added, we will keep this on the agenda for more research and discussion.

48

Mr. Walker said in addition to considering what the impact of different levels of zoning
protection, the Board might also consider the affect at which we can achieve the same
items aesthetically by tweaking the district use tables rather than going at the wells
directly. We would wind up adequately protecting the aquifer without unintentionally
50 driving away the economic development that we desire.
52

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2 Ms. Capalbo asked for suggestions on how to improve victual licenses and the possibility
4 of additional testing for a restaurant.

6 **PLANNER'S REPORT**

6 Mr. Lamphere informed the Board that the Town Council voted to approve Mr. Escher as
8 a full member of the Planning Board.

10 Mr. Lamphere said the Comprehensive Plan update draft is completed. He has copies
12 for the Board and wants to have a joint workshop with the Town Council in the month
14 of June to review the first draft. Mr. Lamphere said he would ask the Town Council to
16 set a date for the workshop at their June 15th meeting, preferably, June 22. The
18 consultants will take the comments generated from that workshop, make changes and go
20 to a public hearing. There could be a joint public hearing in July. We are looking for an
22 August submission to the state. The housing element has already been sent separately to
24 statewide planning for comments and the whole draft was sent last week. The state wants
26 to get the update to the point where it is submitted and approved.

18 Mr. Lamphere said he will try to get the groundwater map that was just approved before
20 the Council meeting on June 15th so they can take action.

22 Mr. Lamphere said we have a consultant, Fuss and O'Neil, who is drafting a wastewater
24 management plan for the town. That has been completed and he hopes to get that to the
26 Town Council as well.

26 Mr. Buford said the educational component of the wastewater management plan is
28 sufficient to make the town eligible for very low interest loans for people who want to
30 update their septic systems.

30 **CORRESPONDENCE AND UPDATES**

30 Mr. Lamphere said the Board had a copy of the letter of resignation from Mr. Santilli.
32 He has sent a letter to him and the Council has also. Both were included in their
34 packages.

34 **PUBLIC COMMENT**

36 Peter Marek said there is an error on the survey with was pointed out to him by
38 Commonwealth and John Brunero. There is an approximate 2 ½ foot discrepancy in his
40 favor between the two surveys. The original plan designed and presented in 2004 by
42 Richard Greene and Paul Leblanc, has what is in dispute; a boundary as indicated by Mr.
44 Marek and a stone wall with drill holes. He said his survey from Cherenzia mimics Mr.
46 Greene's survey. The plan which was submitted and accepted by DEM shows they do
48 not continue the entire stone wall as the other two surveys do.

44 *Ms. Douthitt arrives at 8:25.*

46 Mr. Marek continued, they indicate the drill hole is there but they didn't follow it and
48 skewed the line 2 ½ feet, possibly more, onto his property. If this line is corrected, as
50 agreed to when his lawyer spoke with John Brunero, Mr. Brunero said there would be a
52 ten foot limited disturbance. They can move the road off his property and honor Mr.
Marek's survey. He spoke to DEM and they said they cannot move this road without
reapplying because it would have to be reengineered. Since there is no setback from the
new road, when the property line is delineated it will now be 2/12 feet or more over the

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2 new road; that would be completely off his property. Richard Greene’s survey
collaborates his and they have admitted this mistake. He said this directly affects the
4 application which is coming up for renewal in October and that the plan the town has
endorsed is an incorrect plan. The applicant needs to redesign and relocate the property
6 line at the proper location and resubmit. It is incorrect and if the town does not act on it,
it will create problems for all of us that are not necessary.

8
Mr. DiOrio asked him to reiterate this at the next meeting when the applicant is present.

10 **DATE OF NEXT REGULAR MEETING:** July 1, 2009

12 **ADJOURNMENT**

14 MR. WALKER MOVED TO ADJOURN THE MEETING.

MR. COX SECONDS THE MOTION.

16 All approve.

The meeting adjourned at 8:30 P.M.

18
20
Attest: _____

22 Lynda St. Amour
Planning Board Clerk

24
26 Approved: _____

28