

2
4
**TOWN OF HOPKINTON
PLANNING BOARD**

6
Wednesday, August 6, 2008

8
10
12
**HOPKINTON TOWN HALL
ONE TOWN HOUSE ROAD
HOPKINTON, RI 022833
7:00 P.M.**

14
CALL TO ORDER

16
The August 6, 2008 meeting of the Hopkinton Planning Board was called to order
by Acting Chairman Tom Holberton at 7:00 P.M.

18
ATTENDANCE

20
Board members present: Tom Holberton, Howard Walker, Ray Cox, Hazel Douthitt and
Peter Santilli.

22
Board members absent: Al DiOrio and Joseph Escher.

24
Also present: James Lamphere, Town Planner; Scott Levesque, Town Solicitor;
and Harvey Buford, Conservation Commission.

26
APPROVAL OF MINUTES

28
MR. WALKER MOVED TO ACCEPT THE MINUTES OF THE JUNE 4, 2008 MEETING
AS CORRECTED.

30
MS. DOUTHITT SECONDED THE MOTION.
ALL APPROVE. MOTION PASSES.

32
OLD BUSINESS

34
**Review/Update – Kenney Hill, Plat 20 – Lot 1A, Kenney Hill Road & Grassy Pond
Road. Hopkinton Associates, Inc. LLC, applicant.**

36
Attorney John Brunero represented Hopkinton Associates.

38
39
40
41
42
43
44
Mr. Brunero said DEM granted the applicant a permit to alter the fresh water wetlands to
upgrade Grassy Pond Road on October 5. That process was appealed by Mr. Marek,
there was a hearing and the hearing officer dismissed the appeal. They are ready to go
with Grassy Pond Road. There is no stay. There has been a motion for reconsideration
to the hearing officer. There is no Superior Court restraining order on their proceeding
forward. They will work with the Highway Department to have the least intrusive
method of having Grassy Pond Road updated. Their contractor is ready to proceed. Mr.
Brunero said he understands through Mr. Greene and the Planner that the procedure is for
them to do the off site work, then the on site work and then submit plans for Phase One.

46
Mr. Holberton asked what he meant by proceed.

48
49
50
Mr. Brunero responded they get people out there to start digging to put box culverts in
and do the upgrades that they are required to do.

Hopkinton Planning Board Meeting – August 6, 2008

2 Mr. Holberton asked who will be overseeing that from the town.

4 Mr. Brunero responded, the Highway Commissioner.

6 Mr. Holberton asked if the plans have been approved by Public Works.

8 Mr. Brunero said that the best of his knowledge, the plans have been approved as
10 submitted through the highway department. Their contractor has been in contact with the
highway department on this.

12 Mr. Lamphere said he will discuss this with Public Works Director Doug Reese.

14 Mr. Holberton said he doesn't recall any conversation on bonding.

16 Mr. Brunero said they are not going to bond anything until they do all the infrastructure
18 work.

Mr. Walker asked what about bonding the infrastructure.

20 Mr. Brunero said if they were looking for bonding on Grassy Pond Road; give him a
22 number.

24 Mr. Walker responded that we will need a number from the applicant and suggested that
26 with the price Mr. Brunero quoted for the cost of asphalt, it would be all the more prudent
for the town to have a bond before any work is done on Grassy Pond Road, a town road
28 that is currently an acceptable standard for the existing use. Mr. Walker suggests they
submit to Doug Reese a detailed estimate of work to be done. If Mr. Reese accepts that
30 as a reasonable estimate, then a bond can be set for the appropriate amount. This can be
put on the September agenda.

32 Mr. Levesque said the motion to reopen by DEM may be denied, but it is still out there.
34 If DEM does reopen the hearing and changes their opinion, your client is proceeding at
his own peril.

36 Mr. Brunero said there is no question on that. He will put it on the record that whatever
happens with DEM, they will proceed on their own peril; they hold the town responsible
38 for nothing whatsoever.

40 Mr. Levesque said deadline for approving Final is today and asked if he would be
42 amenable to amending that to sometime after September, asking if it could be set to the
first meeting in October.

44 Mr. Brunero responded that the first meeting in October is fine.

46 MR. WALKER MOVED TO CONTINUE TO THE OCTOBER MEETING FOR FINAL.
MS. DOUTHITT SECONDED THE MOTION.
48 ALL IN FAVOR. MOTION PASSES.

50 Mr. Holberton asked if there is still a chance DEM would buy the land.

2 Mr. Brunero said there is no chance as the state does not have money for open space.

4 Mr. Marek said he has a motion to reopen the case and that there are still some
6 outstanding issues with Grassy Pond Road from Preliminary before Final approval; the
8 engineering review that was agreed to and the Kenney Hill Road crash gate has not been
addressed by police, fire or public works. He said it has not been qualified on the record
that Kenney Hill Road can be left unimproved. He asked when these issues will be
addressed by the Planning Board.

10 Mr. Holberton said the applicant has Preliminary approval with conditions. Any and all
12 conditions that were imposed at Preliminary will be discussed and worked out between
the Planning Board and the applicant before Final approval.

14 Mr. Brunero said his procedure is they will be back in September with the bond and will
16 start construction on Grassy Pond Road.

18 Mr. Marek said Grassy Pond Road was not the only condition for Preliminary approval;
20 the issues of the engineering are from the Master Plan stage.

22 Mr. Holberton said we will review the record and be brought up to speed through the
Planner's office. If it is in the record, it will be dealt with.

24 Mr. Brunero said he will not go back to Master Plan and start rehashing this. He said he
26 is here continuing on Preliminary approval which was subject to the improvement of
Grassy Pond [Road]. They have an approval from DEM.

28 Mr. Marek asked Mr. Brunero if they will be starting on the road before their bonding is
30 set. His concern is they begin digging up the road, he gets reheard and this [decision]
gets changed and the plan gets changed, how do we correct a road that is partially dug up
that is not in the right spot?

32 Mr. Levesque said that no work gets begun on the road until the bond is issued. What
34 DEM may do or not do, is the point he has made with Mr. Brunero: if they get the bond
and proceed to modify the road, they do so with their own peril. If DEM changes their
36 decision, it may result in prejudice to Mr. Brunero's client; they do it at their own peril.

38 Mr. Marek asked if the road is dug up and is not in its right place, is it the responsibility
of the developer to correct that?

40 Mr. Levesque said the point is very clear. If they do something that later gets modified,
42 they do it at their own peril.

44 Mr. Holberton added that if they choose not to correct it, the bond will be used to correct
it.

46

NEW BUSINESS

48 **Pre-Application, Minor 4 Lot Subdivision (no road creation), Hopkinton Associates,**
Plat 19 – Lot 8, Grassy Pond Road. Hopkinton Associates, Inc. LLC, applicant.

50 Attorney John Brunero and Richard Greene of Richard A. Greene and Associates
represented the applicant.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Mr. Brunero said this is a 4 lot subdivision on the west side of the larger subdivision [by the same applicant].

Mr. Greene said the original was before the Board as a basic Pre-Application and they are here to go on to Preliminary. There are 30.79 acres that front on Grassy Pond Road and Spring Street (Rt. 138). The applicant is proposing 4 homes on 4 lots. The smallest lot is 1.97 acres to Lot 4, the largest, with 24.34 acres including all wetland areas and buffers. The stone wall between Lots 3 and 4 is the lot line. Lots 2 and 3 have a shared driveway. The ISDS had been approved for Lot 1 to cover buildability for all 30 acres; it has expired but will be renewed. The rear of Lots 3 and 4 need additional testing. Subdivision suitability will be submitted to RIDEM. Paul Shea has flagged the wetland edges.

Mr. Holberton asked where the proposed road to the subdivision across the street is located.

Mr. Greene presented a plan (Applicant’s Exhibit 1) showing it above the shared driveway, approximated 300 to 350 feet east of Kenney Hill Road.

Mr. Lamphere commented that the driveway for Lot 1 is within the proposed paved area of Grassy Pond Road.

Mr. Greene said that subdivision suitability approval is needed before they proceed to Preliminary.

Mr. Walker questioned why the Planner had concerns with the combined driveways for Lots 2 and 3.

Mr. Lamphere said shared driveways can be problematic between property owners and questioned why they are using a shared driveway in this case.

Mr. Holberton said it has been the Board’s desire to have shared driveways and the developer is aware of this from the past.

Mr. Lamphere said Doug Reese, Public Works Director, has concerns regarding Grassy Pond Road’s pavement ending before reaching Kenney Hill Road.

Mr. Brunero said the contractor will discuss that issue with to Mr. Reese when bonding the road.

Mr. Holberton said the contractor was asked to stop paving the road there by the powers that be at the time who thought the less pavement the better.

Mr. Greene said there was some concern very early on regarding Kenney Hill Road’s value as a scenic road.

Mr. Holberton said the Board didn’t want to encourage people to continue past Larchwood Road and use Kenney Hill Road.

Hopkinton Planning Board Meeting – August 6, 2008

2 Mr. Buford said that when referring to the minutes of September 7, 2005 Pre-Application,
4 it was requested that the majority of Lot 4 have a conservation easement on it, at which
time Carmine Oliverio said he would consider a conservation easement there.

6 Mr. Brunero said he just spoke to the applicant who has no problem at looking at that,
8 either preserving it or some other vehicle to keep it in its pristine condition.

10 Mr. Greene asked if Mr. Buford was looking at it as an easement for the Hopkinton Land
Trust.

12 Mr. Buford said that right now that would be the best and swiftest method to doing it
14 rather than getting DEM and everyone else involved.

16 Mr. Greene said that his only concern would be that Lot 4 has the two full acres of land
before granting the conservation easement.

18 Mr. Buford also suggested that if it is a conservation easement, they would have to give
20 some thought as to what would and would not be allowed on the property. He would be
more comfortable with the results if part of the property could be deeded outright.

22 Mr. Brunero said he would like to address that issue at the September meeting so he
24 could speak to Mr. Oliverio and his clients. Mr. Brunero said he should be able to come
up with a proposal that would accomplish that by the September meeting.

26 Mr. Holberton asked why there is a concern about a house on 24 acres and questioned
28 why someone couldn't own it.

30 Mr. Buford said there was an agreement three years ago.

32 Mr. Holberton responded that there was talk of that and added, he doesn't want to see
34 land owners coming in here with large pieces of land and wanting to put one house on it
feel they have to give the excess land to the Town.

36 Mr. Buford said the conservation easement seemed logical at the time. There is a lot in
there that needs extra protection.

38 Mr. Greene said that land is already quasi-protected by state agencies' viewpoint as there
40 are associated buffers. If the homeowner encroached on those areas, policing from the
state would come into play.

42 Mr. Walker asked the point of a conservation easement on property which is mostly
44 wetlands and can't be built on. The owner can't alter the wetlands without DEM permits
and asked what the benefit is to the town.

46 Mr. Buford said there are rare endangered species across the road. He would like to have
48 the property surveyed to see what is on it.

50 Ms. Douthitt said this is still privately owned property.

2 Mr. Buford walked the boundaries of the property 7 years ago. In the area behind the
house on Lot 4 are two large seasonal streams and a vernal pool.

4 Mr. Greene said the wetlands have been flagged. He will check with the biologist.

6 Mr. Buford would like to see a site visit to that area.

8 Mr. Walker said this is not a situation like a cluster subdivision where an applicant is
10 given a density bonus in exchange for setting aside open space and donating it to the
Land Trust. He asked what would be the basis for requiring the applicant to do this as a
12 condition for approval; or why would they want to?

14 Mr. Greene said the stream is well within the wetland perimeters so buffers associated
with the stream have been taken care of by the fifty foot perimeter. He will look at the
16 area behind the house on Lot 4 for wetlands.

18 Mr. Brunero said they could move the house on Lot 4.

20 Mr. Lamphere passed out an email from Mr. Buford (Board's Exhibit 1) which includes
much of what he has been speaking about.

22 Councilor Barbara Capalbo questioned the meaning of no road creation.

24 Mr. Holberton responded that Grassy Pond Road already exists as an unimproved town
26 road and they have a right to subdivide on that road.

28 Councilor Capalbo said she has an issue with a conservation easement to the extent that
we are removing property from the tax rolls which she feels is unsustainable for towns.

30 Mr. Holberton added that he is an advocate of saving good solid land.

32 The Board does not take any action on this application.

34 **PLANNER'S REPORT**

36 * **Administrative Business**

38 The Town Council will have a Public Hearing on the Gravel Bank Ordinance on
August 25.

40 The Ad Hoc Committee on Exit One will meet at 8 A.M. tomorrow to review the
drafts dated July 11. Building and Zoning Official, Brad Ward and Town Manager,
42 Bill DiLibero will also be there. The committee is anxious to move forward and
would ideally like to have this go before the sitting Council. The method that was
44 suggested was to first have our solicitors do a thorough review of the document as
they were not part of the development process. The next step would be to bring it to
46 the Exit One land owners and have a workshop with them and the Town Council
before it goes to Public Hearing. In a five week period we would have to have the
48 solicitors review it in its entirety, have the zoning official review it, get a consensus
from the property owners, have a workshop on it, then make our edits and advertise
this to go to public hearing.

50 * **Development Plan Water Notation**

To be discussed at next meeting.

Hopkinton Planning Board Meeting – August 6, 2008

- 2 * **Conservation Easement**
 To be discussed at next meeting.
- 4 * **Residential Compound Public Hearing**
 The Town Council will hold a Public Hearing on September 2. The Planning Board
6 is encouraged to attend.
- 8 * **Development Plan Review**
 Mr. Lamphere asked to Board to review previously distributed material.

10 **CORRESPONDENCE AND UPDATES:** None

12 **PUBLIC COMMENT**

 Councilor Capalbo thanked Mr. Holberton for his years of service on the Planning Board.

14 **DATE OF NEXT MEETING:** September 3, 2008

16 **ADJOURNMENT:**

18 MR. WALKER MOVED TO ADJOURN THE MEETING.
20 MR. COX SECONDED THE MOTION. ALL APPROVE.

 The meeting was adjourned at 8:54 P.M.

24 Attest: _____
26 Lynda St. Amour
 Planning Board Clerk

28
30 Approved: _____