

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

6 **October 2, 2013**

7 **7:00 P.M.**

8 **Hopkinton Town Hall**

One Town House Road, Hopkinton, Rhode Island 02833

10 **CALL TO ORDER**

11 The October 2, 2013 meeting of the Hopkinton Planning Board was called to order at 7:01 P.M.
12 by Acting Chairman Howard Walker.

14 **MEMBERS PRESENT**

Howard Walker, Donald Simmons and Carolyn J. Doyle were present.

16 Alfred DiOrio, Hazel Douthitt and Joseph Escher were absent.

18 Also present were: James Lamphere, Town Planner; Scott Levesque, Town Solicitor; Barbara
Capalbo, Town Council Liaison, and Deborah O'Leary, Conservation Commission.

20

APPROVAL OF MINUTES

22 Approval of the minutes of the July 10, 2013 meeting was tabled to the November 6 meeting.

24 **NEW BUSINESS**

Review/Comment – Earth Removal Operation Registration

26

- **Narragansett Improvement Company – Plat 21, Lot 17 – Arcadia Road.**

28

Narragansett Improvement Company, applicant.

30

Attorney George Comolli represented the applicant. He believes the application is
complete and is in compliance with the ordinance.

32

Ms. Doyle said the general permit attached to the application expired in 2008.

34

Mr. Comolli said he will get an updated Federal permit which supersedes the RIPDES
permit, as a condition.

36

Ms. Doyle said she believes it was updated in September of this year.

38

Mr. Levesque said the Board is only to comment on this application and share those
comments with the Town Council.

40

42

Mr. Comolli will update the permit for both the Board and the Town Council.

44

Mr. Walker said the Board then sees no reason why the application should not receive
favorable treatment from the Town Council.

2 • **Koczkodan – Plat 18, Lot 32, Intersection of Lot 3 – Skunk Hill Road.**
3 **Vincent C. Koczkodan, applicant.**

4 Attorney George Comolli represented the applicant. The applicant went before the
5 Zoning Board in the 1980's and presented proof that this was a pre-existing, non-
6 conforming use. The Zoning Inspector has confirmed that. He currently has a farming
7 activity, a wood chip activity. Pursuant to the prior zoning approval, the applicant can
8 gravel only on three acres. When they remove that three acre parcel they will reseed
9 and revegetate, which is what they have been doing and is shown on the plan. The
10 only thing they do not have is the RIPDES permit. It was requested and they were
11 told it was not required because it is an agricultural use.

12
13 Mr. Walker suggested the Board pass this on to the Council with no comment and no
14 reason not to act favorably on it.

16 **OLD BUSINESS**

17 **Land Development & Subdivision Regulations – Final Draft**

18 Mr. Walker has not read the ordinance and would like to have the other Board members'
19 comments when we to the review. He suggested continuing this matter to the
20 November 6 meeting.

21 Mr. Levesque said he and Mr. Lamphere have worked diligently on the regulations
22 including the redrafting of the ordinances necessary to comply with the Subdivision
23 Regulations. He would like to do the review altogether. Since the Board has not yet
24 seen the ordinances, he suggested we continue the review of the regulations to the next
25 meeting.

26
27 Ms. Capalbo said she is anxious to get this accomplished, moved along and passed.

28
29 Mr. Walker said it might be desirable to have a joint workshop with the Town Council
30 sometime in November after the Planning Board's regular meeting.

31
32 Mr. Lamphere received comments from Brad Ward, Building and Zoning Official,
33 suggesting language that we might consider for the Subdivision Regulations. In our
34 Subdivision Regulations now, we have the Sign Ordinance restated from the Zoning
35 Ordinance. Mr. Ward suggested that be deleted. Mr. Lamphere said that was discussed
36 at length before we prepared these regulations as we wanted the applicant to have easy
37 access everything needed in one place. We could merely reference it in the Subdivision
38 Regulations. The Dark Sky Ordinance is also in the Subdivision Regulations, but not in
39 the Zoning Ordinance, and is a stand-alone ordinance of the Town.

40
41 Mr. Walker is in favor of a simple reference of an ordinance or statute for the benefit of
42 the applicant and their counsel, rather than reproduce it.

43
44

2 Mr. Lamphere added, we now have in our Subdivision Regulations Residential
4 Compound, Cluster, Planned Unit Development, and have added Development Plan
6 Review. PUD, Cluster and Residential Compounds were moved years ago to the
8 Zoning Ordinance but were stand-alone ordinances at one point in time. When the new
10 state law came into effect, the Planning Board was authorized by the Council to adopt
12 the new regulations to conform with state law, so those three stand-alone ordinances,
14 Compound, Cluster and PUD, were moved in their entirety into the Zoning Ordinance.
Today they are just referenced in the Zoning Ordinance. Mr. Lamphere distributed
copies of the Residential Compound which are in our Subdivision Regulations now but
were changed to mirror the Compound which is in the Zoning Ordinance. He
distributed copies of the Cluster which is exactly what was moved to the Zoning
Ordinance in the early 1990's. He wants to take the Cluster that is in our regulations
now and replace them with what is in the Zoning Ordinance.

16 Mr. Levesque said many of the old ordinances contain vestiges of old law from a time
18 when the Town Council actually dealt with Planning. It would make more sense to
completely replace them now with new.

20 Mr. Walker asked if he was suggesting we take the Residential Cluster portion of our
22 regulations and substitute them for our existing ordinance.

24 Mr. Levesque said he would literally cut and paste everything that is in our regulations
26 into an ordinance, make sure that we captured everything that may not be in there, and
make that the ordinance.

28 Mr. Walker said you want to take the revised regulations on Cluster Developments and
in essence, have the Town Council adopt them as a new ordinance.

30 Mr. Levesque said the same language, as an ordinance, exactly.

32 Mr. Lamphere distributed the Planned Unit Development ordinance in which he took
34 what was moved into the Zoning Ordinance in the early 1990's and brought it up to
36 date. It was then moved into the Zoning Ordinance under references for Site Plan
38 Review or Development Plan Review. He struck out references to Development Plan
Review and Site Plan Review and replaced it with Major Land Development Project.
Finally, he distributed Development Plan Review, which has a paragraph or two in the
current Zoning Ordinance, but also exists as a stand-alone ordinance. It was amended
after review of Charlestown's and West Greenwich's ordinances.

40 Mr. Lamphere continued, we are about to embark on a rewriting on our Zoning
42 Ordinance. Currently we have Compound, Cluster and PUD in our Zoning Ordinance.
He suggested we print the complete text of those in our Zoning Ordinance. In addition,
44 he suggested that whatever form of development plan review the Board wants is spelled
out in the new Zoning Ordinance as well. We have the opportunity now to construct a

2 review process that is comprehensible, knowable, and doable, and with very little
4 interpretation to be exercised. Whatever proposal comes in the door, we will be able to
classify it readily and put it through the proper course of review.

6 Ms. Capalbo is concerned with interpretation. She praised the Planning Board and does
8 not want any power taken from the Planning Board. She is concerned that the power of
decision will be turned over to the Zoning Board before the Planning Board has its
hands around the entire process.

10 Mr. Levesque said the intent is not to give the Zoning Board any additional review
12 powers. The reason Residential Compounds and the others were moved into the
14 Zoning Ordinance previously, and why they reside there now, is that they deal with
confinements of the use of land and therefore belong in the zoning code. However, that
16 does not mean that the review process is going to be shifted anywhere but here. The
ordinance sets the parameters in zoning for how we use land. This body still gets to
review whether or not you get permission to do that.

18

SOLICITORS'S REPORT

20 Mr. Levesque said the Board has received a copy of an anonymous letter that was sent to
22 the Conservation Commission regarding the Brushy Brook property. The letter suggests
that his firm has a conflict of interest with their involvement with the Brushy Brook
24 matter. He has no involvement in it whatsoever. Ms. Buckley has made it clear to the
Council that the other matter has to do with two people who used to own the property
26 on which the Brushy Brook project sits, are suing one or two other owners that they had
in common and a lawyer for an alleged transaction where the property was sold without
28 the plaintiffs knowing, and they now want money for that sale. They were owners of
that property, two people removed from the current applicant that was before the
Board, and during which he represented this Planning Board. Someone is alleging a
30 conflict of interest for which this Board won the appeal. He is baffled by how this
matter ever became a concern for the Conservation Commission particularly at this stage
32 of the game when Brushy Brook sits in a favorable posture for the Town of Hopkinton.

34 Mr. Walker asked who are Mr. Fogarty and Mr. Ottenbacher.

36 Mr. Levesque said they formerly owned the property on which Brushy Brook sits or had
involvement in it in some fashion.

38

40 Mr. Walker clarified, these are former owners of the land that is now owned by LR-6
and they are bringing a law suit against their title insurance company for recompense
42 for some kind of a title defect or something that allowed this property to be sold from
under them.

44 Mr. Levesque said that would be his assumption. Two owners want money for the sale
of property that say they never got paid for and didn't know happened.

2 Mr. Walker does not see any conflict between the solicitors and Fogarty and Ottenbacher
4 or the Pilgrim Title Company to deal with this dispute nor any reason to believe that the
6 anonymous author of this letter has any right or standing to raise the issue in the first
place. His reaction is we do nothing with it. The second part, off-site improvement, we
denied their application. He has no interest to contact Allied to watch the deposition.

8 Deborah O’Leary asked if the Commission should forward correspondence of this type
10 in the future.

12 Mr. Levesque said he can’t say you should or should not forward them, but for the
Commission to use their sound discretion.

14 Mr. Capalbo said she does not think there has ever been a problem with ethics of this
16 Planning Board. Anonymous has no purpose and should not have even come before the
Board.

18 Mr. Walker said generally, if some town board or official receives an anonymous letter
20 of this sort where it is alleging a violation, it probably ought to be brought to the
attention of some appropriate authority.

22 **PLANNER’S REPORT**

• **Update – Zoning Ordinance Rewrite**

24 The Town Manager established a committee composed of himself, Mr. Lamphere, Mr.
26 Ward, Al DiOrio, and Phil Scalise, Chair of the Zoning Board. They incorporated
everyone’s comments in drafting the RFP for a consultant to do the rewrite. It was
28 advertised and one response was received. There was a meeting with that respondent
to insure that their response met all of the criteria in the RFP, which it did. They
30 recommended that the Town Council award the contract to this firm, Mason and
Associates. There are two principles, David Westcott and Nancy Letendre. The Town
Council may award the contract to them Monday night, October 7.

• **Update – Stormwater Management Plan**

34 The Stormwater Management Plan will also be before the Council on October 7, for
36 their approval and authorization to submit formally to the State of Rhode Island for
the State’s approval.

• **Administrative Subdivision – Dubay/Clark Administrative Subdivision – Plat 24,**
Lots 123 & 124, Church Street.

40 **Robin S. & Cynthia L. Dubay and Robert H. & Patricia P. Clark, applicants.**

42 Mr. Lamphere approved the moving of a lot line.

CORRESPONDENCE AND UPDATES

44 • The Board received a letter from Sylvia Thompson regarding the proposed day care
46 facility that was to locate in Hope Valley, with her suggestions for seeking another
site in town.

2 • Mr. Lamphere has received a letter from Governor Lincoln D. Chaffee regarding some
4 of the things he signed into law that are designed to further economic development.

6 • Mr. Lamphere received a summary of the 2013 Legislative session. There are a
8 number of pieces of legislation that deal with land use. Expiration periods of
10 applications have again been tolled and are valid through June 30, 2015, providing
12 they were in effect on November 9, 2009. Also, when we are calculating density on a
14 property we can no longer subtract slope.

16 **PUBLIC COMMENT:** None

18 **DATE OF NEXT REGULAR MEETING:** November 6, 2013

20 **ADJOURNMENT**

22 MS. DOYLE MOVED TO ADJOURN. MR. SIMMONS SECONDED THE MOTION.
24 ALL APPROVE.

The meeting was adjourned at 7:50 P.M.

22 Attest: _____
24 Lynda St. Amour, Planning Board Clerk

Approved: November 6, 2013