

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

6 **November 7, 2012**

8 **7:00 P.M.**

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

12 **CALL TO ORDER**

14 The November 7, 2012 meeting of the Hopkinton Planning Board was called to order at 7:00 p.m. by Chairman Al DiOrio.

16 **MEMBERS PRESENT**

18 Al DiOrio, Howard Walker, Hazel Douthitt, Donald Simmons and C.J. Doyle. Joseph Escher was not present.

20 Also present were: James Lamphere, Town Planner; Bill McGarry, Town Manager; Scott Levesque, Town Solicitor; Barbara Capalbo, Council Liaison; and, Harvey Buford, Conservation Commission.

24 **APPROVAL OF MINUTES**

26 MR. SIMMONS MOVED TO APPROVE THE MINUTES OF THE OCTOBER 3, 2012 MEETING AS RECORDED.
MS. DOYLE SECONDED THE MOTION.

28 MESSRS. DIORIO, SIMMONS, AND MS. DOUTHITT AND DOYLE APPROVE. MOTION PASSES.

30 **Violation of Approved Plan – Brayman Hills, Plat 18, Lot 1A, Fairview Avenue & Dye Hill Road. Bruce Brayman Builders, Inc.**

32 Mr. Levesque said the fire system is not functioning. The applicant has attempted to deed the land and maintenance to the fire district. Ownership of the system remains with the applicant. How will Mr. Brayman proceed?

36 Attorney Kelly Fracassa represented the applicant. Mr. Brayman was also present.

38 Mr. Fracassa said the issue is whether Mr. Brayman has violated the Board's final approval. The as-built area was approved with a cistern in April 2006. A deed executed and recorded conveying the cistern area to the fire district. He does not know if delivery took place. He asked, who has used and maintained the cistern since 2006 and what was Mr. Brayman in violation of? He may submit an application to modify the approval. A dry hydrant is available for the fire district to use.

46 Mr. DiOrio said the set of plans is as-built, not the final plan that was prove. He asked Mr. Lamphere for his opinion of the note appearing on the plans after the Planning Board discussion.

50 Mr. Levesque said the responsibility to build and maintain the system lies with the applicant or the applicant proves someone else is responsible.

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2 Mr. DiOrio said the minutes suggest that turning the cistern over to the fire district did not
4 appear originally. The primary issue is the health, safety and welfare of the residents.

4 Chief Stanley said there was a December 30, 2005 letter from Captain Bader. They did
6 not receive a plan. His board has rejected the deed.

8 Mr. Fracassa said a hydrant was put in.

10 Chief Stanley said the hydrant was on Fairview Avenue. There was a slow leak from the
12 time it was built. The fire district does not own any systems in the area.

12 Jill Matson said there were several years from when it was constructed in 2010 before
14 Mr. Brayman was told it leaked.

16 Chief Stanley said the dry hydrant is not an alternative for that project. A dry hydrant
18 needs a 50 year record that it has water.

18 Mr. Fracassa said it is secondary.

20 Chief Stanley said they guarantee a resident's safety. All are secondary systems.

22 Mr. Walker said preliminary plan approval says the neighborhood association would take
24 care of the system and the Hope Valley Fire Department would have an easement to
26 access the cistern. Mr. Greene said they would like to convey the cistern and if there is
28 conveyance, the plan would be in accordance. He asked where is the acceptance of the
deed and maintenance?

28 Mr. Brayman asked, where does it say he is responsible for it?

30 Mr. Fracassa said he is going by what is on the record. The deed was executed and
32 recorded.

34 Mr. Walker said if the deed was not delivered, it means nothing.

36 Mr. Levesque said there is no proven conveyance and the obligation remains with the
38 applicant.

38 Mr. Walker said the Planning Board is a legal entity separate from this town and has no
40 power to impose an obligation on the fire district. The fire district does not have to
42 accept any responsibility.

42 Mr. Fracassa said it is on the plan.

44 Mr. Levesque said it was Mr. Brayman's obligation and that has not been done.

46 Mr. Walker said you have to approve alienation actually happened.

48 Mr. Lamphere said the as-built plan went to the Planning Board, October 2006. In
50 January 2006 the final plan was approved. The Final plan was recorded with the
52 easement taken off Lot 9. The Preliminary plan public hearing was March 2 after the
March 2, 2005 meeting with the fire district. No markings are on the Preliminary plan but
was discussed before Preliminary application. One-sixth of lot 9 is listed as cistern with

2 easement. Mr. Greene said his client would want to transfer the cistern. The applicant
4 was in the office today and listened to the audio tapes. The cistern was put in as a
6 condition by the Planning Board by order of Chief Stanley. The Planning Board expects
the cistern is functional and is maintained. There should be an established
homeowners' association.

8 Voice in audience said there isn't one.

10 Mr. Lamphere said six houses have been built and there are ten vacant lots. In October
2012, a building permit was granted for another house in that subdivision.

12 Mr. Brayman said he did not get a building permit.

14 Mr. Lamphere said the language that is on the Final plan was recorded. He asked, did
16 the Board sanction changing language on lot 9?

18 Mr. Levesque said the applicant should tell the board why he is not in violation, what he
will do, and who will maintain the cistern.

20 Mr. Fracassa said if the final plan that is in the Clerk's office is stamped and approved, it
22 will be conveyed to the fire district.

24 Mr. Levesque said you can't meet obligation. You still have the cistern not functioning
and not fixed.

26 Mr. Fracassa said Mr. Brayman will not fix the cistern and does not want to maintain it.

28 Mr. Levesque said the violation is through the Planning Board. Does the applicant
30 intend to file an application for an alternative?

32 Mr. Fracassa said yes, it will be filed as soon as possible.

34 Mr. DiOrio added, with a written confirmation by the Chief that it is okay.

36 **Preliminary – Panther Orchard, 2-Lot Minor Subdivision, Plat 8 – Lot 22,
Tomaquag Road. Panther Orchard Farm, LLC, applicant.**

38 Attorney John Payne represented the applicant. The application was before the Board
40 in 2007 for a similar 4 lot minor subdivision. It was approved by the Administrative
Officer but never filed. They are now asking for a 2 lot minor subdivision. Lot 1 is
42 proposed as a new lot of 2.9 acres and is the same as it was five years ago. There is a
total of 43 acres. Road frontage is on Tomaquag Road and slopes away from the road.

44 Mr. DiOrio said he sees no problems and asked why they are asking for a lesser density.

46 Mr. Payne said it was because of family politics.

48 Mr. Buford said the adjacent property owners are listed as Deer Creek, however, that
land has been conveyed to the Hopkinton Land Trust.

50 Richard Coppa, Tomaquag Road questioned the location of the subdivision.

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2 MR. WALKER MOVED TO APPROVE THE PRELIMINARY PLAN APPLICATION WITH THE SAME
FINDINGS AS AUGUST 1, 2007, WITH THE FINAL TO BE APPROVED ADMINISTRATIVELY.

4 MS. DOUTHITT SECONDED THE MOTION.

6 MESSRS. SIMMONS, DIORIO, WALKER AND MSES. DOYLE AND DOUTHITT APPROVE. MOTION
PASSES.

8 **Election – Secretary of the Board**

10 Mr. Walker graciously volunteered to be Secretary of the Board. His approval was
unanimous.

12 **Subdivision Regulations Review – Articles IV, V and VI.**

14 Discussion ensued regarding each of the three articles. Corrections, deletions and
additions were made to the articles.

16 The Board will review Articles VII and VIII at the December meeting.

18 **PLANNER'S REPORT:** None

20 **CORRESPONDENCE AND UPDATES:** None

22 **PUBLIC COMMENT:** None

24 **DATE OF NEXT REGULAR MEETING:** December 5, 2012

26 **ADJOURNMENT:** MR. SIMMONS MOVED TO ADJOURN THE MEETING.
MS. DOYLE SECONDED THE MOTION. ALL APPROVE.

28 The meeting was adjourned at 9:40 p.m.

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34 Attest: _____
Lynda St. Amour, Planning Board Clerk

36 Approved: December 5, 2012