

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

6 **May 7, 2014**

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

8 **Hopkinton Town Hall**

9 **One Town House Road, Hopkinton, Rhode Island 02833**

10 **CALL TO ORDER**

11 The May 7, 2014 meeting of the Hopkinton Planning Board was called to order at 7:00 p.m. by
12 Chairman Alfred DiOrio.

14 **MEMBERS PRESENT**

15 Alfred DiOrio, Hazel Douthitt, Howard Walker, Donald Simmons and Carolyn J. Doyle were
16 present.

18 Also present were: James Lamphere, Town Planner; Scott Levesque, Town Solicitor; Barbara
19 Capalbo, Council Liaison; and Harvey Buford, Conservation Commission.

20 **APPROVAL OF MINUTES**

22 MR. WALKER MOVED TO APPROVE THE MINUTES OF THE APRIL 2, 2014 MEETING AS CIRCULATED.

23 MS. DOYLE SECONDED THE MOTION.

24 MESSRS. DIORIO, SIMMONS AND WALKER, AND MSSES. DOUTHITT AND DOYLE APPROVE.

25 MOTION CARRIES.

26 MR. WALKER MOVED TO ACCEPT THE MINUTES OF THE APRIL 23, 2014 MEETING WALK AS CIRCULATED.

28 MS. DOYLE SECONDED THE MOTION.

29 MESSRS. DIORIO, SIMMONS AND WALKER, AND MSSES. DOUTHITT AND DOYLE APPROVE.

30 MOTION CARRIES.

32 **OLD BUSINESS**

33 **Administrative/Preliminary/Final – 2 Lot Minor Subdivision – Canonchet View, Phase III -**
34 **Plat 11, Lot 2 – Lawton Foster Road North. Eric C. Kingman et al, applicant.**

35 Attorney William Nardone represented the applicants. Also present were Mark Boyer of Boyer
36 Associates and the applicants, Eric Kingman and Joyce Devine.

38 Mr. Nardone said they are here for three aspects of the plan: Administrative which addresses lot
39 line adjustments to accommodate a driveway; the conclusion of the Preliminary phase of the
40 application; and, for Final approval. The checklist has been completed and they have received a
41 certificate of completeness. They are asking the Board to act favorably on the application.

42 Mr. Boyer said they were before the Board last month for Preliminary. The Administrative
43 subdivision moves the existing property line of AP 14, Lot 4A, allowing the existing driveway to
44 the applicants' house to be on that lot entirely at the roadway and reroutes the driveway to the
45 existing garage. When they moved that line they had to move the proposed lot line of Parcel B in
46 a southerly direction to accommodate the required frontage. The proposed house on Parcel A

2 was moved in a southeasterly direction and closer to the road. The existing residential lot, Lot
4A, is 3.33 acres. Parcel A will be 11.50 acres and Parcel B will be 2.648 acres.

4
6 Mr. Walker said if the project is built as shown on the plans that have been administratively
8 approved, there should be no problem with this project and no reasonable objection from the
10 public concerning the stone cairns that we observed on the site walk. Neither the buildings nor
12 the septic fields would materially harm or destroy any of the prominent Native American
14 features.

16 Mr. DiOrio said this is different than a standard subdivision that we might approve. He hears
18 the Planning Board saying that this is where these improvements will take place, meaning that
20 subsequent owners will not have any latitude with regard to the proposed improvements. We
22 have invested a significant amount of time viewing the site and making recommendations for
24 minor relocations as to the features. This is what we want to see built, so it would have to be
26 memorialized on the plat and in the deeds. There is no latitude here.

28 Mr. Nardone said what is presented this evening is what is intended to be built in those locations.
30 There would need to be some minor reasonable latitude depending on what is subsurface. This
32 does show more detail than you may typically approve and his clients are agreeable to build or to
34 insure that what is shown is where the buildings and the septic systems are to be located. If that
36 becomes an appropriately worded condition on the recorded plat, it is acceptable to them. There
38 is another spot on the large lot that purchasers may want to build a house and there are no rock
40 formations in that area. How do we reasonably address that type of alternative? Maybe the
42 condition or the comment on the plat needs to be something enforceable but maybe a little less
44 stringent than only what is shown here.

46 Mr. Walker said we can propose a condition that the buildings and septic fields will be built as
48 shown on the recorded plans or as such other place as the Planning Board may in the future
approve. If somebody wanted to build something other than what is on the plans, they can come
back to the Planning Board and satisfy us that they are not going to destroy the Indian artifacts or
otherwise cause some harm to the property.

Mr. Nardone said that that would be acceptable to his client. He is sees that as an application to
modify a previously approved subdivision.

Mr. Levesque said that is correct. That is in our Subdivision Regulations.

Ms. Douthitt said it might not be any of these people at that time.

Mr. DiOrio said we have to work under the presumption that it will not be the same people. Mr.
Kingman and Ms. Devine have been very good stewards. His comments are concerns are not
directed at them but at the inevitable development of property when someone else becomes the
steward and perhaps are not as vigilant.

Mr. Walker said the concern on the larger lot is for potential future development of a residential
compound. We need to at some point address that issue or at least take note of it.

2 Mr. DiOrio said the condition would extend to such proposals. If someone comes in for a
4 proposed residential compound, they would be entitled to do that, but at that point we would be
making sure that none of the rock piles are touched.

6 Mr. Nardone said he would think that any future application for subdivision of the larger lot
8 would be subject to that condition.

10 Mr. Buford said moving the house forward on the big lot was helpful for the issue of erosion. He
does not believe there is enough frontage on the large lot for a fifty foot for a compound road.

12 Mr. Nardone said if someone comes in with that type of application, they will have to meet the
14 Planning regulations.

16 Christopher Greenleaf commended Ms. Devine and Mr. Kingman for inviting so many people on
their land for the site walk. He would hope that were there a different house site in the future it
18 be required that the access to this house site be figured into the calculations of its impact.

20 Mr. DiOrio said the idea of a proposed relocation coming before the Board would not only be for
the new dwelling location but for the associated driveway, septic, grading, etc.

22 Dorothy Gardiner, Canonchet Driftway, asked when you talk about cairns and Native American
24 stonework, how many are enough and how too few are not enough that the Planning Board
would be concerned about building. Secondly, if you prevent someone from building or using a
26 parcel of land, or you take from them that parcel of land that contains these stoneworks, isn't that
taking by eminent domain?

28 Mr. Levesque said that neither of those two things is happening here. There is no taking here.
30 These land owners are not prevented from developing their land. Both questions are
hypothetical and not applicable to this project.

32 Ms. Gardiner asked if their taxes will decrease since they have been discouraged from developing
34 that portion of their land.

36 Mr. Levesque knows of no reason why that would occur.

38 Ms. Gardiner would like to see information so that people would know if they have enough, or
they don't have enough, cairns or Indian stonework. I realize this is a case that there are a
40 sufficient number, but would like to know should there be another case. With newer methods of
building and using property, maybe clear guidelines would be appropriate.

42 Ms. Capalbo said you buy the property and build the house exactly as shown, and then want a
44 pool, garden, or tennis court and you don't have to come back to the Planning Board.

46 Mr. DiOrio said not at this stage.

48 Mr. Lamphere said in his memo he recommended that the Board approve the Administrative/
Preliminary/Final plan. He spoke with Mr. Boyer about putting the standard water notation on
50 the plan. He thinks the condition that the Board is preparing is a good one, but questioned, as
players change, how is this going to be caught. The applicant is not coming back to the Planning

2 Board for a building permit. The condition should be affixed to the plan. The Building Official's
4 office will receive a copy of the plan, and it will be dependent on the Building Official at that time
6 to go back to the plan and compare it with the building permit application. He sees the potential
for something to get lost.

8 Mr. DiOrio said we should make it a condition that prior to the issuance of the building permit
10 the Building Official will be charged with checking the proposed building location against what
12 is on the plan. If that doesn't happen, the Building Official changes, or they don't catch it, it is on
the plat. It should be on the plan; it should be part of the deeds. Put it in as many places as you
can and we will rely on people's intentions.

14 Mr. Lamphere said the best we can do is to make sure to add it to the plan and provide the
Building Official's office with a written copy of the Planning Board's decision.

16 Mr. Walker said it should be sufficient to have a notation on the recorded plan. That should be a
18 recorded notice to any purchaser of the property. If they try to build something that is in
violation of the plan notation, that's at their considerable risk, financially and legally.

20 MR. WALKER MOVED TO GRANT FINAL APPROVAL OF THIS PROJECT, INCLUDING THE ADMINISTRATIVE
22 CHANGES TO THE LOT LINE LOCATION AND DRIVEWAY LOCATIONS THAT HAVE BEEN INDICATED ON THE
PLANS, SUBJECT TO THE FOLLOWING CONDITIONS:

- 24 1. OUR STANDARD WATER NOTATION SHALL BE AFFIXED TO THE RECORDED PLAN; AND
- 26 2. ANY BUILDINGS BUILT ON THESE PARCELS SHALL BE AT THE LOCATION AND THE TYPE THAT
28 ARE SHOWN ON THE APPROVED PLANS AS RECORDED OR AT SUCH OTHER LOCATION AS MAY
30 BE APPROVED BY A FUTURE PLANNING BOARD UPON PROPER APPLICATION. SIMILARLY,
THERE SHOULD BE A NOTATION IN THE DEEDS TO THAT EFFECT TO MAKE SURE THAT ANY
FUTURE PURCHASER IS ON AMPLE NOTICE OF THE CONDITIONS ON THIS PROPERTY.

32 MR. WALKER PROPOSED THE FOLLOWING FINDINGS IN SUPPORT OF THE MOTION AND CONDITIONS:

- 34 1. THE PROPOSED SUBDIVISION IS CONSISTENT WITH THE REQUIREMENTS OF OUR HOPKINTON
36 COMPREHENSIVE PLAN;
- 38 2. EACH LOT CONFORMS TO THE STANDARDS AND PROVISIONS OF OUR ZONING ORDINANCE;
- 40 3. THE PROJECT AS APPROVED WOULD HAVE NO SIGNIFICANT NEGATIVE ENVIRONMENTAL
IMPACTS IF BUILT ACCORDING TO THE REQUIRED CONDITIONS OF APPROVAL;
- 42 4. THE SUBDIVISION AS PROPOSED WILL NOT RESULT IN THE CREATION OF INDIVIDUAL LOTS
44 WITH SUCH PHYSICAL CONSTRAINTS TO DEVELOPMENT THAT BUILDING ON THEM,
ACCORDING TO OUR REGULATIONS, WOULD BE IMPRACTICABLE;
- 46 5. ALL OF THE PROPOSED LOTS HAVE ADEQUATE AND PERMANENT LEGAL ACCESS TO A PUBLIC
48 STREET, NAMELY LAWTON FOSTER ROAD NORTH;
- 50 6. THE SUBDIVISION TO THE EXTENT THAT IS PERTINENT, PROVIDES FOR SAFE CIRCULATION OF
52 PEDESTRIAN AND VEHICULAR TRAFFIC, FOR SURFACE WATER RUNOFF CONTROL, FOR
54 SUITABLE BUILDING SITES AND FOR PRESERVATION OF NATURAL, HISTORIC AND/OR
CULTURAL FEATURES THAT CONTRIBUTE TO THE ATTRACTIVENESS OF THE COMMUNITY; AND

2 7. THE DESIGN AND LOCATION OF THE STREETS, BUILDING LOTS, UTILITIES, DRAINAGE
4 IMPROVEMENTS AND OTHER IMPROVEMENTS SHALL MINIMIZE FLOODING AND SOIL EROSION.

6 MR. SIMMONS SECONDED THE MOTION.

8 Mr. DiOrio asked are we clear that we are approving the Preliminary with the Final to be
10 handled administratively or are we approving both the Preliminary and the Final.

12 Mr. Walker said he understands the application to be before us for both Preliminary and Final.

14 DiOrio asked, have they submitted checklists? Everything's covered?

16 Mr. Lamphere said yes.

18 Mr. DiOrio perhaps I can get you to include proposed buildings, driveways, septic systems and
20 grading.

22 MR. WALKER AMENDED HIS MOTION TO INCLUDE THAT ANY CHANGE IN THE BUILDING, SEPTIC FIELD,
24 DRIVEWAYS AND ANY APPURTENANT STRUCTURES, SHALL BE SHOWN ON THE PLANS OR ANY CHANGES
MUST BE APPROVED BY SOME FUTURE PLANNING BOARD UPON APPROPRIATE APPLICATION.

26 MESSRS. DIORIO, WALKER, SIMMONS AND MS. DOYLE AND DOUTHITT APPROVE. MOTION CARRIES.

28 **NEW BUSINESS**

30 **Recommendation to Town Council – Approval of Carolyn J. Doyle as full member of the
32 Board to replace Joseph Escher.**

34 MR. SIMMONS MOVED TO RECOMMEND TO THE TOWN COUNCIL, THE APPROVAL OF CAROLYN J. DOYLE
36 AS A FULL MEMBER OF THE BOARD.

38 MS. DOUTHITT SECONDED THE MOTION.

40 THE BOARD UNANIMOUSLY AND ENTHUSIASTICALLY APPROVES. MOTION CARRIES.

42 **Policy for Submitting Material to the Board**

44 Mr. Lamphere said we have had instances where people have submitted written materials after
46 the packets have been sent out. Going forward, he will submit anything to the Board pertinent to
48 an application, including comments from people who have been noticed in the packet. Once the
50 packet goes out, the Board will not receive anything written from anyone. If anyone has any
comments for the Board, they will attend the meeting that they were noticed on, can speak there,
and if they want to supplement with a hand-out, we can accept it as an exhibit and the Planning
Board can do whatever it wants at that point. If you want to reflect on these things and the case
is continued to the following month, fine.

Mr. Levesque said he would suggest that the policy be clear and that everyone knows that
anything received after the packet goes out will not be accepted to the extent that they will
present it live at the meeting. If three days before the hearing you receive an email, your reaction
according to the policy should be, you need to present this live. This will not be submitted to the
Planning Board. At least they will be on notice that they need to be at the meeting or it is not
going to the Board.

2 Mr. DiOrio said in the past when confronted with a policy, we've made a formal declaration of
4 such and made a motion to this effect, until the time they can be incorporated in the Subdivision
6 Regulations. We should make something a bit more formal such as this is our policy from this
8 point forward.

10 Mr. Buford asked if anyone can be at the public hearing and speak or introduce something. Can
12 a third person introduce something? He's looking for fairness; for a counterbalance.

14 Mr. Lamphere said the policy that we just set here was if somebody wanted to submit something
16 in writing before the packet goes out, it goes in the packet. Once the packet goes out and
18 somebody submits something in writing, he doesn't accept it. However, if the case gets
20 continued to the next month, if it's not decided upon the first time the Board hears it, then that
22 correspondence should go in the next packet to the Board.

24 Ms. Douthitt said but what if the decision is made and they don't have the opportunity because
26 they didn't hear about it soon enough.

28 Mr. Simmons asked, are we saying that they had the opportunity to show up and make the
30 argument in person. Even if the correspondence doesn't make it, you have the opportunity to
32 come and state your case.

34 Mr. Buford asked, what if they were submitting a letter for someone else.

36 Mr. Levesque said if John Smith stands up and says this is Mr. Jones's expert opinion. I want to
38 submit it. It then becomes like any other piece of evidence at that point.

40 Ms. Doyle and the applicant can still decide to postpone or extend to the next month if they feel it
42 is important to their case.

44 Mr. DiOrio said there can't be this constant streaming of data; that is the whole idea behind the
46 submission deadline.

48 Ms. Capalbo said if they don't make the deadline, it is their own disservice, not the Board's.
50 When it is given at the meeting, there is no time to review it so it has no value.

Mr. Levesque asked if Mr. Lamphere to reduce it to writing to be reviewed at our next meeting.

**Ordinance Review – Review of Final Drafts of the Residential Compound, Residential Cluster
and Planned Unit Development Ordinances for Recommendation of Approval to the Town
Council.**

Mr. DiOrio said we left off with recommended changes to the ordinances by Mr. Buford at the
Town Council meeting that have been remanded to us.

Discussion ensued on the Residential Compound Ordinance. The only change made to this
ordinance was in Section 18-145, Setbacks. In the second section a number 3 was added: "The
ownership of the open space shall be conveyed consistent with the conditions of approval set by
the Planning Board at the time or recording of the final plat and before any lots can be sold."

2 Discussion ensued on the Residential Cluster Ordinance. No changes were made to the final
draft.

4

6 The Planned Unit Development Ordinance was discussed. The only change made was in Section
13.5-29, Area, Density and Dimensional Requirements for a PUD District. In section A, line 6, the
word “natural” was removed. That sentence should read: “If the Planning Board finds
8 exceptional natural resources present on the site, then more stringent requirements may be
required by the Planning Board in order to protect those exceptional resources.”

10

12 Mr. Lamphere said we intend to give the Town Council an underlined, strikethrough version of
the changes in the two ordinances.

14

16 Mr. Levesque said the consensus from the Council was they want to see the old ordinance and
they want to see the new ordinance and they want to compare them. He thinks that the changes
discussed tonight should be submitted as the proposed new and give the Council the old
ordinance so they can compare them side by side.

18

20 Mr. DiOrio said that is not what he heard but is what he would prefer. One Councilor wanted the
strikethrough.

22

24 Mr. Levesque said he thinks Mr. Lamphere responded to that saying it isn’t possible here because
we remade these ordinances. He thinks the only way to correctly proceed now is to do as he
suggested.

26

28 Ms. Capalbo said this is entirely different. It is not an easy strikethrough of the changes; it is an
entirely new ordinance.

30

32 Mr. Lamphere said the day after the workshop, he gave the Council the existing ordinances.
They have the proposed ordinances from the workshop. The changes that the Board made
tonight are so few in number, can we introduce them at the public hearing?

34

36 Mr. Levesque said you could do that, but the strikethrough version would only represent what
we did tonight, not the changes we have made on the whole. He would advise that you give
them the old ordinances and the new ordinances just as they are written, with no strikethroughs,
and they can hold them side by side.

38

40 Mr. DiOrio asked if we could have Ms. Buckley interject at the outset a brief explanation of why,
on this document, strikethrough does not work. Can we impose on her to do that?

42

44 Mr. Levesque said we certainly could.

46

48 Mr. Lamphere said the Council has already read our first set of proposed ordinances. We are
going to give them the current ordinances again and the new ordinances in whatever form this
Board wants.

50

Mr. DiOrio said there is a strategy that we executed here. It was not the strikethrough strategy
and we did it for a reason. We are complying tonight with the request to go back and analyze
Mr. Buford’s suggestions. That was our charge.

50

2 Ms. Doyle suggested we itemize the changes on a sheet in two lines.

4 Mr. Levesque would suggest then that the Planning Board vote now to recommend the adoption
6 of the ordinances as we handed them, all the ones in play, to pass along to the Council for their
adoption. Once that is done, it will be back in our court to adopt our regulations.

8 MR. WALKER SO MOVES.

MS. DOUTHITT SECONDED THE MOTION.

10 MESSRS. DIORIO, WALKER, SIMMONS AND MSES. DOUTHITT AND DOYLE APPROVE. MOTION CARRIES.

12 **SOLICITORS'S REPORT:** None

14 **PLANNER'S REPORT**

16 Mr. Lamphere asked the Board if they would be in favor of nameplates such as those used by the
Council and Zoning Board. The Board agreed they will be beneficial to the members of the
audience and will be ordered.

18 **CORRESPONDENCE AND UPDATES:** None

20 **PUBLIC COMMENT**

22 Mr. Walker said he recommends with enthusiasm to the Town Council that they get us suitable
alternates for the Planning Board. Also, he is a member of the Charter Review Commission
24 which is in need of more members. They now have 4 and need 5 for a quorum.

26 **DATE OF NEXT REGULAR MEETING:** June 4, 2014

28 **ADJOURNMENT**

MR. WALKER MOVED TO ADJOURN.

30 MS. DOYLE SECONDED THE MOTION. ALL APPROVE.

32 The meeting was adjourned at 9:02 p.m.

34

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

38

40 Approved: June 4, 2014