

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

6 **September 5, 2012**

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

8 **Hopkinton Town Hall**

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

12 **CALL TO ORDER**

14 The September 5, 2012 Meeting of the Hopkinton Planning Board was called to order at 7:00 P.M. by Chairman Al DiOrio.

16 **MEMBERS PRESENT**

18 Present: Al DiOrio, Howard Walker, Hazel Douthitt, Joseph Escher, Donald Simmons and C.J. Doyle.

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

22 **APPROVAL OF MINUTES**

24 MR. WALKER MOVED TO APPROVE THE MINUTES OF THE JULY 9, 2012 MEETING AS AMENDED.

MS. DOUTHITT SECONDED THE MOTION.

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

MOTION PASSES.

28 **Review/Comment of Existing Earth Removal Registration – Kenyon – Plat 24,**
30 **Lots 172, 173 and Plat 25, Lot 23, River Road. Marilyn N. & Roger E. Kenyon,**
32 **registrants.**

34 Attorney Kelly Fracassa represented the applicants. Mr. Kenyon and Mr. Terry Rhodes were also present.

36 Mr. Fracassa said he understands the Zoning Board has reviewed Mr. Kenyon's application.

38 Mr. Lamphere said the Earth Removal Ordinance was passed by the Council on February 21. All earth removal operations had ninety (90) days to register. Mr. Kenyon is the only one to comply with the ninety day requirement. Mr. Lamphere said the application looks complete and has signed it, as have other staff members. The applicant will go before the Town Council on September 17 for their acceptance.

44 Mr. Simmons asked the amount of material that is extracted in a year.

46 Mr. Kenyon said he has six (6) acres and the expected use is moderate.

48 Mr. Buford said the Conservation Commission is concerned with refueling above the water table. They recommend a provision for secondary containment.
50

2 Mr. Levesque said the Council expects the Board’s comments and knowledge of
the history of the site to guide them in their overall decision.

4 Ms. Doyle asked for clarification of the third stage growth area on the plan.

6 Mr. Rhodes said that is the forest and the screening around the operation.

8 Mr. Walker asked for a clarification of soil descriptions to which Mr. DiOrio
10 responded.

12 MR. WALKER MOVED THAT THE APPLICATION BE GRANTED BY THE TOWN COUNCIL AS
14 SUBMITTED AND AMENDED TO INCLUDE THE CONCERNS OF THE CONSERVATION COMMISSION
FOR THE SECONDARY CONTAINMENT OF FLUIDS RELATIVE TO THE MAINTENANCE AND REFUELING
OF EQUIPMENT.

16 MR. ESCHER SECONDED THE MOTION.
MESSRS. WALKER, ESCHER, SIMMONS, DIORIO AND MSES. DOYLE AND DOUTHITT APPROVE.
18 MOTION PASSES.

20 Mr. Lamphere will prepare the Board’s advisory for the Council.

22 **Subdivision Regulations Review – Articles I, II, III**

Mr. Lamphere said changes to the regulations were made to make them more
24 user-friendly, to rearrange the Articles into a more logical sequence, and to give
people everything they need to know for their particular project within one
26 article.

28 Discussion ensued on how to proceed with the review.

30 The Board decided the review of Articles I, II and III will be at the October
meeting. The Board received Articles IV, V and VI to allow more time for their
32 review on a subsequent agenda.

34 **Conservation Commission – Planning Board Policies**

Mr. Lamphere said the Conservation Commission has recommended that the
36 Planning Board adopt, as a policy to be incorporated in the Subdivision
Regulations, that a zoning certificate from the Zoning Official be added to a
38 checklist to indicate if an application is possible under the existing use tables or
whether it requires certain permits. Guidance could then be given to the
40 applicant as to what needs to be done or if there is a need to amend the zoning
ordinance. Mr. Lamphere currently asks the Zoning Official to comment early in
42 the process of a subdivision or land development project for input from a
zoning perspective.

44 Ms. Douthitt said if obtaining the zoning certificate was included in our
46 checklist, future problems may be avoided.

48 Ms. Doyle said comments from Pre-application allow the applicant to
reformulate the project for Master Plan. If we require the zoning certificate with
50 the Pre-application and it changes, are we going to be asking the applicant to go
back and get another zoning certificate?

52

2 Mr. DiOrio said the Pre-application checklist for almost all projects is benign. At
4 Master Plan, if there is an obstacle, the applicant has already expended
significant resources.

6 Ms. Doyle said the applicant could get the zoning certificate right after Pre-
application and then put the Master Plan package together.

8 Mr. Escher suggested making it a prerequisite for Master Plan.

10 Ms. Doyle suggested making it optional at Pre-application.

12 Mr. Simmons likes the idea of the Board getting more knowledge upfront.

14 Ms. Capalbo believes this is not a good time to initiate this. The Council is
16 concerned with major problems in the Zoning Regulations and the Use Tables.
The Town Ordinances and the Charter will be fully revised and rewritten this
18 year. The Planning Department is rewriting and reorganizing the Subdivision
Regulations. The Council is working on the new Land Use Map that will be
20 addressed in the next year and a half. Sixty thousand dollars (\$60,000) has
been set aside for a consultant to work with the Planning Department and the
22 Zoning Board to rewrite, update, revise and recreate the zoning rules and
regulations. The proposed Conservation Commission policy does not change
24 what the Planning Board can do now. She asked that this proposed addition to
the policies is taken under consideration to determine where it goes in the
26 policy, in our Zoning Regulations and our Use Table, not now, but in the future
when this is reviewed by the consultant.

28 Mr. DiOrio said that if an applicant comes in tomorrow, the changes we are
30 talking about will not be in place. What is the disadvantage to getting a
certificate tomorrow?

32 Mr. Walker asked what would be the benefit derived from this: would it be for
34 the applicant, the Planning Board, or both? An applicant may want, as a matter
of choice, to talk to the Zoning Officer to make sure there aren't any
36 insurmountable problems with the project before spending a lot of money to
prepare documents for filing with the Planning Board. If this were established in
38 the form of a recommendation from the Planner so that at Pre-application, it is
known that the applicant has been informed that there is a potential problem,
40 he sees no reason to delay doing this. It would be just as useful now as when
all the zoning is refined and the ordinances changed.

42 Mr. DiOrio asked, what if the finding of the zoning certificate is leveraged
44 against us.

46 Mr. Escher said then we need to fix the table first.

48 Mr. Walker said there will always arise cases for a judgment as to whether a use
is permitted with whatever the existing zoning is. If the Zoning Official says this
50 is a legal use permitted by right, are we bound by the Zoning Official's opinion?
The Zoning Board is not bound by it.

52

2 Mr. Levesque said if a zoning certificate says a use is permitted, it gives the
4 applicant more stability. It does not nullify what this Board does in applying
6 regulations and statutes, ultimately deciding the case. What originally brought
8 this policy in play was that something that was shown to Mr. Ward was different
from something shown to this Board. This policy is not going to fix that and
maybe potentiate that. He is not sure why this is a policy that needs to be
adopted.

10 Mr. Walker said this would add another requirement for every application for a
12 non-residential project. What is our justification for imposing such a
requirement and expense?

14 Mr. Lamphere agreed that this is not a policy that has to be adopted. The way
16 we conduct business now is adequate to get us through this. Our checklist
allows comments from Town Officials now.

18 Mr. DiOrio suggested we revisit this proposed policy in the future, and for now,
20 rely on the Planner to use his professional judgment as to when he should direct
the applicant to the Zoning Official.

22 **PLANNER'S REPORT:**

24 * Mr. Lamphere said he will be attending the Achieving Mix-Use workshop.
Information was included in the Board's packets.

26 * Mr. Lamphere told the Board that the count of affordable housing in the town
28 is 6.59% for 2012. It was 7.3% in 2011. The reason for the difference is that
30 they are now using the 2010 census which resulted in 35 of Rhode Island's
39 towns having a decrease in the percentage of affordable housing.

32 **CORRESPONDENCE AND UPDATES:** None

34 **PUBLIC COMMENT:** None

36 **DATE OF NEXT REGULAR MEETING:** October 3, 2012

38 **ADJOURNMENT:**

40 MR. WALKER MOVED TO ADJOURN THE MEETING.

42 MR. SIMMONS SECONDED THE MOTION. ALL APPROVE.

The meeting was adjourned at 8:35 p.m.

44 Attest: _____
46 Lynda St. Amour, Planning Board Clerk

48 Approved: October 3, 2012