

MINUTES OF THE PLANNING BOARD MEETING OF AUGUST 3, 2009
SUBJECT TO APPROVAL AT THE NEXT REGULAR MEETING

I. CALL TO ORDER:

Meeting was called to order at 7:00 p.m., Jim Libby, Vice-Chairman, presiding.

Members Present: Jim Libby, Rick Lemek, Leo Felice, Bruce Ferreira, Mike Lupis, Christopher Desjardins and Marc Tremblay.

Members Absent: Jeff Partington and Jeff Presbrey.

Others Present: Chuck Mainville, Town Council Liaison, Ray Cloutier, Zoning Board Chairman, Joseph Raymond, Building Official, Thomas Kravitz, Planning & Economic Development Director, and Christine Langlois, Deputy Planner.

II. ATTENDANCE REVIEW:

The Vice-Chairman acknowledged that Mr. Presbrey was unavailable this evening due to a work-related obligation and Mr. Partington was away on vacation.

III. ACCEPTANCE OF MINUTES:

The **minutes of the Planning Board meeting of June 1, 2009** were read. *A motion to accept the minutes as presented was made by Mr. Ferreira, seconded by Mr. Desjardins and carried unanimously by the Board.*

IV. CORRESPONDENCE:

- Planning Commissioners Journal

V. NEW BUSINESS:

Minor Subdivision:

Christopher & Irene Watson, Jackson Schoolhouse Road, Burrillville; Map 171, Lot 8: Preliminary/Final Plan Review: Mr. Norbert Therien, of National Surveyors, Inc., and Mr. Christopher Watson, applicant, were in attendance to represent the request. Mr. Therien told the Board that a conceptual plan had been reviewed in May and found to be acceptable, with a minor revision to show direct physical access to the historic cemetery from Jackson Schoolhouse Road and the submission of the RIDEM Wetlands approval (Determination of Non-Jurisdiction Permit #09-0128). He noted that a septic system design plan was submitted and approved by RIDEM, which he provided to the recording secretary. He stated that there have been no further changes to the plan and asked if there were any questions from the Board.

Having no questions from the Board members, *a motion to approve the Preliminary-Final Minor Subdivision Plan for Christopher & Irene Watson was made by Mr. Felice as the subdivision is consistent with the Comprehensive Plan, Chapter V Housing, Implementation Action V.I.a.1; the application is in conformance with the Town's Zoning Ordinance regarding lot dimension and use; there will be no negative environmental impacts as evidenced by the RIDEM Non-jurisdictional approval dated July 9, 2009; the subdivision will not result in the creation of unbuildable lots; the subdivision will create two lots that will have adequate and permanent physical access to Jackson Schoolhouse Road. The motion was seconded by Mr. Ferreira and carried unanimously by the Board.*

At this point, Mr. Lemek recused from discussions on the next two items.

Virginia Sindelar & Dart Development Corporation, Jackson Schoolhouse Road, Burrillville; Map 201, Lot 10 & Map 225, Lot 23: *Administrative Plan Review:* Mr. Robert Woods, applicant, Mr. Jeff Campopiano, engineer, Ms. Virginia Sindelar, applicant and Mr. Paul Crowell, attorney for Ms. Sindelar, were all in attendance to represent the request. Mr. Woods told the Board that there has been a boundary dispute for over 10 years. Recently the applicants had arrived at an agreement, through a court decree, which removes approximately 1.6 acres from Map 225, Lot 23 (Dart Development) and adds to Map 206, Lot 10 (Sindelar). He stated that his property would still retain its frontage of 450 feet and has already received RIDEM approval for an ISDS system; however, the system location does not conform to the Town's Zoning Ordinance requirement of 200 feet from a wetland. Mr. Libby noted that later in the meeting, the Board would be reviewing his request for an advisory opinion to the Zoning Board for his parcel (Map 225, Lot 23) for relief in regards to the septic system location.

Mr. Tremblay voiced concerns with setting a precedent for approving an administrative subdivision with a lot that contains an extreme amount of wetlands. Mr. Ferreira reminded him that the court system has already ordered the boundary line location – it is not a decision of the Planning Board based upon the Subdivision Regulations and the Zoning Ordinance. Mr. Woods added that this subdivision plan does not impact the fact that his lot would require a variance for the septic system.

As there were no further questions from the Board members, *a motion was made by Mr. Ferreira to accept the court-decreed decision pertaining to the Administrative Subdivision plan for Virginia Sindelar & Dart Development, dated March 22, 2006 and revised: 6/7/06, 9/14/06, 12/08/06, 12/12/06 & 7/29/09; and that it does not meet the Subdivision & Land Development Regulations or Zoning Ordinance but is not an issue regarding its acceptance. The motion received a second from Mr. Tremblay and carried unanimously by the Board.*

Dart Development Corporation, Jackson Schoolhouse Road, Burrillville; Map 201, Lot 10: *Request for Advisory Opinion to Zoning Board on OWTS location;* Referring to the previous discussion, Mr. Woods told the Board that he is requesting a favorable advisory from the Planning Board on his request before the Zoning Board to place a septic system less than 200 feet from a wetlands system.

Mr. Tremblay again voiced concerns with the limited amount of buildable area and that the landscape is not conducive to locating a house. Mr. Woods explained that the rear portion of the lot is physically wet but the front portion supports a perc of 10-12 feet on the water table. The boundary line movement does not affect whether the lot can support a dwelling as the septic plan submitted shows a house, septic system and a well. He noted that the lot has approximately 30,000 sq/ft of buildable area when the ordinance requires at least 12,000 sq/ft of buildable area.

Mr. Felice asked the applicant for more information regarding the request. Mr. Campopiano told the Board that he had been asked to come into the project a few years ago to conduct a site evaluation of the lot, but noted that previous environmental sitings

and testing had been done on the site. He explained that the property has approximately 10-acres; it drops off towards the rear of the property where there is a swamp and wetlands. The proposed house would be located in the front of the property, before the woods and occupies only the first 50-60 feet from the street. The proposed ISDS system is up against the road, approximately 20 feet off the property line and 35 feet off the road. The proposed well is approximately 130 feet from the proposed septic system.

Mr. Libby questioned the distance of the septic system from the wetlands. Mr. Campopiano said about 122 feet away. Mr. Ferreira asked if that was from the proposed area or the alternate area. Mr. Campopiano said that the alternate area is no longer needed, according to state regulations, if a lot condition allows for just one. He said the alternate area is approximately 165 feet away from the wetlands. Mr. Ferreira stated the 165 feet from the wetlands sounds a lot better than 122 feet and requested Mr. Woods consider using the alternate area for the septic system, especially when seeking relief from zoning. Mr. Campopiano said if the change is requested, it should be no problem with RIDEM's review. Mr. Libby stated that it was his opinion that the alternative area was the best location for the septic system and that a stipulation for the best location should be placed on any motion that is made. Mr. Woods said due to the deep water tables they are able to utilize a conventional galley-type system. Mr. Felice questioned if the approval was for a four-bedroom system. Mr. Woods said yes.

Mr. Tremblay questioned the wetlands approval, stating that it was approved back in 1996. He questioned the ISDS approval. Mr. Campopiano said the approval was made in November 2006. Mr. Ferreira questioned the wetlands flagging accuracy. Mr. Woods said the survey was conducted around the time of approval – either 1995 or 1996, but nothing has changed on the property since then.

Ms. Virginia Sindelar informed the Board that recently she was digging a trench for water lines on her property, approximately 120 feet away from the property line, and struck the water table at about five feet. She noted that the cranberry bog is currently full of water. Mr. Campopiano told her that her elevation is much lower than theirs, as the elevation between her two buildings is 614 feet where the proposed house location is at 620 feet. Mr. Tremblay questioned the elevation of the ponds on Ms. Sindelar's property. Mr. Campopiano said approximately 610 feet.

As there were no further questions, a motion was made by Mr. Tremblay to provide the Zoning Board with the following favorable recommendation: although the property, as a whole, is not suitable for development, it is a legal lot of record and approvals have been received from the State for ISDS and Wetlands. It is recommended that the septic system be placed as far away as possible from the wetlands edge to minimize the amount of relief being requested. The motion received a second from Mr. Desjardins. Under discussions Mr. Ferreira pointed out that the applicant should consider a variance of approximately 40 feet from the wetlands in order to meet the requirements for a septic system. Mr. Tremblay amended his original motion to include this stipulation. The motion was seconded by Mr. Desjardins, and it carried unanimously. The original motion carried unanimously.

Mr. Lemek returned to the meeting

Minor Land Development:

O’Keefe Properties, LLC, Victory Highway, Burrillville; Map 114, Lot 59:

Preliminary Plan Review: Attorney Eric Brainsky, of the Law Offices of Michael Kelly, Erin Gallogly, project manager, of Marc Nyberg Associates, and Mr. David O’Keefe, applicant, were in attendance to represent the request. Attorney Brainsky told the Board that this was a minor land development project located on Victory Highway in Burrillville for Sub-lot 4 of the minor five-lot subdivision known as Pine Crest and was permitted under the Constantino family. He stated that his client had recently purchased the property and was pursuing this minor land development. The property contains 3.1 acres and Mr. O’Keefe is looking to construct a 10,000 sq/ft building to house an excavation company – which entails indoor repairs and temporary housing of machinery; some retail sales may take place although not at the scale of a car dealership. Attorney Brainsky stated that the Zoning Official provided a zoning certificate which indicates that the proposed use would be allowed within the zoning district.

Referring to the plan that was submitted, Attorney Brainsky reiterated that the proposal was for the construction of a 10,000 sq/ft building, with a single 24-foot paved driveway from Victory Highway, leading to a paved parking area, in front of the proposed building, that would allow for ten parking spaces. This is the required number of parking spaces under the Zoning Ordinance based upon the proposed number of employees (15). A gravel drive is proposed for access to the rear of the building for dropping equipment off for repairs. To the east of the gravel driveway is a proposed retention basin to handle all of the roof runoff which will meet, or exceed, all RIDEM regulations. The property is located in the General Commercial (GC) district as well as the Aquifer Overlay (A-100) district and the Route 102 Development Management Overlay area. The proposal conforms to all of these districts. He noted that the plan before the Board differs slightly from the previously submitted plan that was approved by RIDEM and RIDOT. He explained that RIDEM had issued insignificant alterations for this lot as well as two other lots when the Pine Crest plan was submitted. RIDOT had also issued physical alterations permits. He pointed out that the building, since that time, has been slightly reconfigured as well as the parking and access areas. He added that the applicant was looking for comments from the Board before resubmitting the new plan to RIDEM and RIDOT and would be seeking a conditional Preliminary approval from the Board, noting that any modifications made to the plan would be consider minor by RIDEM and RIDOT.

In regards to comments made by the DPW Director, Attorney Brainsky stated that Erin Gallogly from Marc Nyberg’s office had responded to them and satisfied Mr. Bernardo’s concerns. He noted also the submission of a landscape plan, a building rendering and drainage calculations. Mr. Libby questioned whether they would be providing the Board with the original plan submitted to RIDEM or whether they would be resubmitting to RIDEM the plan before the Board this evening. Attorney Brainsky stated the plan being considered this evening is the plan the applicant wishes to pursue, assuming the Board is willing to grant conditional approval. The presentation was then turned over to Erin Gallogly.

Ms. Gallogly explained to the Board the reason for the building and parking plan modifications as the previously approved plan for Pine Ridge had received approvals from RIDEM and RIDOT based on arbitrary site plan designs. This building now has

more aesthetics and the layout has changed, although the drainage calculations have not been affected. She then asked if the Board had any comments. Mr. Ferreira suggested increasing the rear yard area to allow for future growth. He also voiced concern with the proposed amount of parking and the possibility of retail sales. Attorney Brainsky stated that any retail sales would be as an accessory use, whereas a piece of equipment being worked on might be sold. Mr. Tremblay questioned how the equipment would be accessing the building. Attorney Brainsky said the equipment would be entering through the rear of the building. Mr. Tremblay voiced concerns with the contours in that area and whether extending the rear yard, as Mr. Ferreira has suggested, would change the drainage calculations. Attorney Brainsky explained that the dotted line below the 100-foot riverbank that runs around the building is the limit of disturbance that has been shown to RIDEM. Ms. Gallogly noted that if any additional gravel would need to be added, the calculations could be slightly amended.

As there were no further questions from the Board, Mr. Libby said that the Board has two options: 1.) provide a conditional approval of the plan pending the RIDEM approval with the stipulation that any changes in calculations and layout of the building be resubmitted to the Board; or 2.) continue this review until the RIDEM revision approval is received. Attorney Brainsky stated that they were seeking the conditional approval option. He added that they would be willing to come before the Board for Final plan review should they require it. Mr. Libby asked Mr. Kravitz for his opinion. Mr. Kravitz stated that he would feel much more comfortable if the RIDEM approval was in hand prior to granting approval of this site plan. He told the Board that he had not prepared the findings for them to consider. He asked Attorney Brainsky if there would be a problem with the Board addressing those findings at next month's meeting. Attorney Brainsky said he didn't as long as the findings were typical to the Subdivision & Land Development regulations and state law.

A motion to grant conditional Preliminary approval of the Site Plan for O'Keefe Properties, LLC, Victory Highway, Burrillville, was made by Mr. Ferreira, with the stipulation that the changes discussed this evening (increasing the rear yard area; increasing the gravel area in order to allow for a better turning radius) be incorporated into the plan; the Findings of Fact prepared and addressed at next month's meeting; and RIDEM approval of the revised plan. The motion received a second from Mr. Tremblay. Under discussions, Mr. Lemek requested the addition of the timeframe previously discussed. Mr. Ferreira amended his motion to include a status update within 90 days should RIDEM's approval have not been received; RIDEM approval with 180 days. The amendment was seconded by Mr. Tremblay and it carried unanimously by the Board. The original motion carried unanimously.

Major Land Development:

Oakland Village, Adler Properties, LLC, Oakland School Street & Victory Highway, Oakland; Map 179, Lot 56: *Request for Extension of Preliminary Plan Approval:* Mr. Kravitz explained that the project is currently underway and that the request was just a formality. *A motion to grant a one-year extension of the Preliminary Plan approval for the Oakland Village Land Development plan was made by Mr. Tremblay. The motion received a second from Mr. Desjardins and carried unanimously by the Board.*

VI. OTHER BUSINESS:

Report from Administrative Officer:

Mr. Kravitz noted that during the months of June & July, Certificates of Completion were issued for the following: **O’Keefe Properties, LLC, Victory Highway, Burrillville** (Preliminary Minor Land Development Plan); **Virginia Sindelar & Dart Development, Jackson Schoolhouse Road, Pascoag** (Administrative – 2 lots); and **Christopher & Irene Watson, Jackson Schoolhouse Road, Burrillville** (Preliminary-Final Minor Subdivision – 2 lots; 2nd submission). The following plans were rejected as incomplete: **Christopher & Irene Watson, Jackson Schoolhouse Road, Burrillville** (Preliminary-Final Minor Subdivision – two lots); **East Avenue Condos, Ed Whipple, East Avenue, Burrillville** (Conceptual Major Land Development); and **Gerard Lapierre & Nasonville Fire District, Victory Highway, Nasonville** (Corrective Administration Plan). There were no plans endorsed.

Planning Board Discussions:

Update on the Senior Center from the Senior Task Force Liaison for Discussion, Consideration & Action: Mr. Ferreira told the Board that the Task Force has not made any effort toward seeking out funds for the project – they have only been concerned with battling the negative ads in the Bargain Buyer.

Mr. Ferreira then told the Board that he had discovered that recently (May 27, 2009) changes were made to the Zoning Ordinance, not in accordance with State regulations. One of the changes was to Section 30-71, Section 14. Uses not listed, which states “Any use not specifically listed in Section 30-71, or Section 30-202 is prohibited.” He also noted that the ability to make amendments for minor changes to those two tables was also removed from the Zoning Ordinance. He added that a “Senior Center” does not appear in any of those tables. Mr. Libby said that a use variance would have to be sought. Mr. Ferreira told him that there was no language that allowed for a use variance to be sought. He voiced concern with the fact that the Town would be voting in September on something that our Zoning Ordinance doesn’t allow. Mr. Kravitz asked if the Board wanted him to obtain the opinion of the Town Solicitor. The Board said that he should.

As there was nothing further to discuss, a motion to adjourn was then made at 8:15 p.m. by Mr. Ferreira, seconded by Mr. Tremblay and carried unanimously by the Board.