



OFFICE OF THE  
**PLANNING BOARD**  
TOWN HALL, 511 MAIN STREET  
DUNSTABLE, MA 01827-1313  
(978) 649-4514 FAX (978) 649-8893  
planning@dunstable-ma.gov

**Planning Board Minutes  
Tuesday, April 29, 2014**

Approved: May 5, 2014

Meeting was called to order by Chairman, Willard (John) Goldthwaite Jr. at 7:30pm.  
Members present: Joe Vlcek, Brett Rock, Joan Simmons and George Basbanes  
Town Engineer: Jeff Rider  
Town Counsel: Attorney Rich Larkin  
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

**Meeting Minutes of April 23, 2014**

Joan made a motion to accept the meeting minutes from the April 23<sup>rd</sup> meeting. Joe 2<sup>nd</sup> the motion. – Motion passed unanimously.

**Review and/or Sign Bills**

One Cuoco & Cormier invoice (Alexander Estates) was signed.

**Review and/or Sign Payroll**

One payroll slip was signed.

John handed the meeting over to Brett for the deliberations on the Special Permit and Definitive Subdivision for Alexander Estates.

**Definitive Subdivision/Special Permit Hearing Deliberations/Vote - Alexander Estates - Carolina Properties LLC – Hall Street/Lake Street**

In attendance: applicant Gerry Welch, Attorney Douglas Deschenes.

The Secretary told members that the engineering review account was down to \$48.00 which will not cover the meeting tonight and review of the final plan. George made a motion to have the applicant deposit an additional \$1,500 into the 53G Account. Joe 2<sup>nd</sup> the motion. – Motion passed unanimously.

Brett then explained to those in attendance the procedure for tonight's meeting. Only Board members will be deliberating and voting. No input from the public will be entertained. If the Board needs clarification, they will address the Town Engineer, Town Counsel or Counsel for the applicant. Brett went on to say that the Board will be starting with the "Findings of Fact" for Special Permits and Open Space Developments.

- 1) **The proposed construction or use is consistent with the general purposes of the Zoning Bylaw;** Members agreed that the proposed open



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space plan meets the general parameters of Section 6.6 such as parcel size, reasonable lot frontage on a public or private way (Alexander Way) deemed adequate by the Board, appropriate size and shape of sites for building, area is zoned for single family homes, suitable open space of 15.12 +/- acres; dwelling units in detached buildings with no more than one dwelling unit in a building, and, is in harmony with that section.

- 2) **The proposed construction or use will not impair the integrity of the district and adjoining districts;** Members agreed that the proposed construction is R1 and consists of single family dwelling houses which is the leading use provided for that District.
- 3) **The proposed construction or use will not be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town;** Members agreed that there is no indication in the plans submitted, nor in evidence presented that the use will be detrimental to the health and welfare of the occupants and citizens of the Town. It was felt that there are some benefits to the Open Space development (versus the approved preliminary conventional subdivision) such as having a large tract of land conveyed to the town, no road going onto Hall Street, one fewer house and no standing water in catch basins (mosquitos).

Brett asked members if they agree with the first three findings.

Willard J. Goldthwaite, Jr – yes agrees      Joan Simmons – yes agrees

Joe Vlcek – yes agrees      George Basbanes – yes agrees

Brett Rock – yes agrees

- 4) **The proposed construction or use will not be detrimental to the value of nearby property;** Joan told members that she has a concern with this particular finding. She believes that the infiltration basin could affect the value of nearby property. George said that the Regan's did raise that point, however, no proof was submitted during the 3 ½ months of hearings. Joan stated that, at one time or another during these discussions, every member of the Board agreed that they would not want a drainage ditch behind their house. Joe reminded Joan that the change to a low impact development (swales and basin) was done at the request of our own Board of Road Commissioners (BOR). He asked if it would be more detrimental to the town to install a stormwater system with catch basins underground when our own BOR asked, and the state encourages, the low impact alternative. He also said that because of past comments the



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applicant, at the request of the Board, moved the basin further away from the Regan's house and has agreed to plant trees as a buffer. Joan stated that the Chairman of the Board of Road Commissioners is also an abutter to this project and suggested that perhaps the infiltration basin could be put behind his house. She went on to say that the board had specified early on in their discussions with the developer that the open space be left between the subdivision and the abutters as a buffer. It was not until very late in this process that we learned that the "open space" designated on the site plan behind the Regan's home was, in fact, going to be an extremely large infiltration basin requiring all vegetation to be removed and making it part of the project and not open space at all. She concluded that if there is not enough room to leave adequate open space between the subdivision and the abutters, then there isn't enough room for eleven house lots.

George then asked for a 5 minute recess which was granted by the acting Chairman. George stated after the recess that he asked Mr. Regan for a clarification about the plantings between the basin and his property. Mr. Regan told George that he does not want to see the basin and would like any trees that are planted to be close to his property line.

After the discussion, Brett asked members if evidence was presented that the subdivision will be detrimental to the value of nearby property. George said some anecdotal evidence but nothing tangible was presented. Joe said that no evidence was presented that shows more of a detrimental impact with an Open Space development than with a conventional subdivision.

Joan asked Attorney Larkin for clarification on what would happen if the Special Permit was denied. Rich said that if the applicant wanted to appeal the decision, it would be through Land Court. Brett told Joan that the applicant could also withdraw the application without prejudice (with the Board's approval) and start the process all over again but said there has been a lot of time and money spent on this proposal on both sides. Joan said that she was happy with the plans except for the basin location. The Board asked Jeff Rider to clarify how many feet are between the Regan's and the basin. Jeff said that it is 92 feet from the corner of their house to the edge of the berm and from their house to the next house is 210 feet.

Brett asked members if they agree with the statement that the proposed construction would not be detrimental to the value of nearby property.

Willard J. Goldthwaite – yes agrees      Joan Simmons – no does not agree



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Joe Vlcek – yes agrees    George Basbanes – yes agree    Brett Rock – yes agree

The Board went through Section 6.6.3 of the Town of Dunstable Zoning Bylaw-Development Regulation-Open Space Development and made the following conclusions.

- A) The Board agreed that the proposed open space development plan meets and is in harmony with the purposes of this section;
- B) The Board agreed that the area of the tract of land is not less than fourteen (14) acres; it is 28.9+/- acres.
- C) The Board agreed 4-1 (Joan Simmons disagreeing) that the total number of building lots in the open space development is no greater than the number of building lots that would otherwise be allowed in the district in which the land is located.

Joan stated that this regulation states that “the board SHALL require that the applicant provide evidence...” She went on to say that because the egress onto Hall St. has serious line of site issues, the board should require a traffic study as evidence that the 12-lot conventional subdivision is feasible. Brett said that Section 3.04 of the Rules and Regulations for Site Plans states that a traffic report MAY be required by the Board, depending on the size and complexity of the proposed project but that the Board, at no time, requested a traffic study as members felt they had enough information. Joan commented that the board has insisted on absolute proof from the abutter that an infiltration basin would reduce their property values but has requested no proof at all from the developer that a 12-lot subdivision is feasible even though everyone agrees that an egress onto Hall St. in that area would be very dangerous.

- D) The Board agreed that each of the lots shown on the plan has reasonable frontage on a public or private way deemed adequate by the Planning Board, Alexander Way.
- E) The Board agreed that insofar as possible, each lot is of a size and shape as shall provide a building site which is in harmony with the natural terrain and other features of the tract;
- F) The Board agreed that the front and side and rear yards of each lot are shown on the site plan by dashed lines indicating the area within which a building will



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be sited;

- G) The Board agreed that provision was made that at least thirty-five (35%) percent of the land area of the tract, exclusive of land set aside for road area, shall be open land, ...; approximately 45% was set aside.
- H) The Board agreed that provision was made that such open land will be conveyed to and owned by the Town, to be held for park, conservation or open space use. It was agreed the transfer would be subject to a reservation of a temporary easement, not to exceed two years, for completion of development activities, with appropriate restoration of work areas.
- I) N/A
- J) The Board agreed that all dwelling units are in detached buildings and no more than one dwelling unit will be in a building.

The Board made the following changes to the "Conditions of Approval" document.

- 3(c)3: add after "easement" "All documents must be reviewed by Town Counsel prior to plan endorsement."
- 3(c)4: remove "and infiltration/retention basin" after swales.
- 4: remove "prior to the release of any of the lots for building permits" and replace it with "before the 1<sup>st</sup> Occupancy Permit is issued".
- 6(a): remove "60 days" and replace it with "30 days from the day the Planning Board endorses the final plan"
- 6(b): remove "45 days" and replace it with "90 days"
- 13: change "designer" to "designee"

The Board added the following condition to the "Conditions of Approval" document for the project:

Adequate foliage must be provided between the Regan's property (44 Lake Street) and the infiltration basin to minimize the view from the house. The plantings are to be indigenous to the area such as white pine, planted every ten (10) feet, staggered and a minimum of six (6) feet in height. The plantings must be in the ground before the basin is completed.

#### Additional waiver

Joe made a motion to waive the requirement of street lights for the subdivision. George 2<sup>nd</sup> the motion. – Motion passed unanimously.



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George made a motion to grant the Special Permit to Carolina Properties LLC for an Open Space Development under Section 6.6 of the Town of Dunstable's Zoning Bylaw subject to all terms and conditions discussed and agreed to at tonight's meeting. Joe 2<sup>nd</sup> the motion. – Motion passed 4-1

Willard J. Goldthwaite, Jr. – yes, to grant Special Permit  
Joan Simmons – no, to not grant Special Permit  
Joe Vlcek – yes, to grant Special Permit  
George Basbanes – yes, to grant Special Permit  
Brett Rock – yes, to grant Special Permit

John made a motion to approve the Definitive Subdivision submitted by Carolina Properties LLC for the subdivision Alexander Estates, dated November 26, 2013 with a revision date of April 2, 2014 subject to all terms and conditions discussed and agreed to at tonight's meeting. Joe 2<sup>nd</sup> the motion. – Motion passed 4-1

Willard J. Goldthwaite, Jr. – yes to approve  
Joan Simmons – no to approve  
Joe Vlcek – yes to not approve  
George Basbanes – yes to approve  
Brett Rock – yes to approve

Brett handed the meeting back to Chairman John Goldthwaite.

**Additional Topics Discussed Not Noted on the Agenda**

**Special Permit Filing & Request for Salt Shed–Board of Road Commissioners**

The Secretary reported that the Board of Road Commissioners (BOR) had filed a Special Permit Request for the replacement of the town salt shed on property located on Groton Street. The Board requested that because this is a "town" project that the fees be waived. Brett made a motion to waive the application fee and engineering review fee for this project. George 2<sup>nd</sup> the motion. – Motion passed unanimously. The BOR will still pay for the legal notice in the Groton Herald.

Motion was made to close the meeting at 9:40pm. Motion 2<sup>nd</sup>. – Motion passed unanimously.

Respectfully submitted,

Cheryl A. Mann  
Secretary, Dunstable Planning Board