

**PLANNING BOARD MEETING
GEORGETOWN PLANNING BOARD
Wednesday, December 3, 2008
7:00 p.m.**

Present: Mr. Hugh Carter, Chairman; Mr. Tim Howard; Mr. Harry LaCortiglia; Mrs. Matilda Evangelista; Mr. Nicholas Cracknell, Town Planner; Ms. Michele Kottcamp – Assistant

Absent: Mr. Christopher Rich

Board Business 7:00 p.m.

Minutes – August 13, 2008

Mr. Carter opens the meeting at 7:20pm.

Ms. Evangelista- Motion to accept the August 13, 2008 minutes with changes.

Mr. LaCortiglia- Second

All in favor? 3-0, Unam (Tim Howard and Chris Rich absent)

Mr. Howard arrives at 7:35PM.

Vouchers –

Mr. LaCortiglia- Motion to pay vouchers for \$882.50

Ms. Evangelista- Second

All in favor? 3-0, Unam (Tim Howard and Chris Rich absent)

Correspondence -

Caribou Ct. Subdivision Permit extension

Mr. Cracknell- Everything is in order. The modification to the plan was approved.

Ms. Evangelista- Has anything changed?

Applicant – Many restrictions were put on us by ConCom.

Mr. Cracknell- Advises applicant to call Planning office to set up preconstruction meeting.

Mr. LaCortiglia- Move to extend Caribou Court subdivision permit to December 3, 2010.

Mr. Howard- Second

All in favor? 4-0, (Tim Howard present, Chris Rich absent)

Chaplin Hills – Memo regarding snow removal

Mr. Cracknell- Board of Selectmen approved with some conditions the ability for Peter Durkee (Highway Surveyor) to plow Whispering Pines and Chaplin Hills this winter. We can bill against the insurance co. for that or we will take it out of the check at closing. The office will contact Town Counsel to get an update on the status of Chaplin Hills with the bondholder.

Other Business –

83 Baldpate Road Draft ANR plan – Discussion

John Morin of Neve Morin is present for the applicant. Neal Glick is present as the attorney for the applicant.

Mr. Morin- The property is on Baldpate Rd and houses Baldpate Hospital (Parcel 4-1) We are proposing to subdivide the property into 3 lots. The access from the hospital will remain the same. It is 10.2 acres in size. There is frontage of 200ft on Baldpate Road. Lot 2 would be the Pinckney property and wraps around Lot 1. Lot 3 is the southeasterly corner of Baldpate Road. There is about 2 acres of continuous buildable area in Lot 2.

Mr. Glick- We don't have a plan right now. This is only an ANR plan. We have approximately 87 acres. It makes sense to carve lots for future development. We only want to create lots.

Mr. Carter- How does this work within the affordable housing bylaw?

Mr. Cracknell- Lot 1 is occupied. The new bylaw would not kick in until Lot 2 or 3. They are creating their own hardship and I would encourage that the buyer of the lot get an easement from Lot 1. If there is not a major impediment, than they get an ANR endorsement. The Board can not prevent them from proceeding forward. The planning question is the access.

Ms. Evangelista- You have to look at the whole picture. You may eliminate the possibility of doing something with the back lot.

Mr. Cracknell- The OSRD is an option for them. We can give fair warning. If you don't reserve an easement over Lot 1, be prepared for a battle with the Town. Before the two parties go through a resolution, there may be a zoning issue. We need to get that answer from a legal perspective. If there is a legal impediment, we need to provide a pathway to get to Lot 2 through Lot 1. The issue with the OSRD is not clear. Lot 3 may not be suitable for an OSRD. Lot 1 will be developed at some point in the future. We don't have the house lots. You [the Planning Board] are approving a plan for a development. They are conveying building lots. Lot 3 will be less than 10 acres and is a building lot for one single family home.

Ms. Evangelista- What happened to the owners plan to expand for continuation of the hospital?

Mr. Glick- It could be in the future. There was never any intent to get around the bylaw. We are not talking about a subdivision.

Mr. Cracknell- If they are condos or an ISH, it is development.

Mr. Glick- If we came in after endorsement, are you suggesting we would have to provide an OSRD plan for one lot?

Mr. Cracknell- It is unclear, but I doubt that one house on a single 7.5 acre lot will warrant an OSRD plan but if you plan to build more than one house in the future, that would warrant an OSRD plan.

Mr. Glick- That seems a little unfair.

Mr. Cracknell- It sounds like the intention here is to build a single family house on Lot 3.

Mr. Glick- If we build one house, then would you consider waiving the OSRD plan?

Mr. Cracknell- Add a note to plan "Compliance with Article 7 is required if there is more than one single family house on Lot 3." It is a compromise that is reasonable.

Mr. Carter- I am still unclear about the affordable housing segmentation issue.

Mr. Cracknell- I will look at it and get back to you next week.

Mr. Glick- We are not doing a subdivision here. It is simply an ANR plan and there is no doubt that we meet the requirement for ANR endorsement. We are willing to consider a compromise.

Mr. Cracknell- There could be a note added that this does not mean they are eligible for a building permit and zoning compliance.

Mr. LaCortiglia- Did this go to the Assessors?

Mr. Cracknell- We have not received any comments yet and we should wait until we have their comments before making a decision.

Mr. LaCortiglia- The Assessors may change the lot numbers. Parcel A looks like it's in the middle of the easement.

Ms. Evangelista- Motion to continue 83 Baldpate Road to December 10, 2008.
Mr. Howard- Second
All in favor? 4-0; Unam

Whispering Pines update – Developer selection & Tripartite agreement

Jill Murphy from Connelly & Connelly is present for Newburyport 5 Savings Bank.

Ms. Murphy- We were here for a discussion on November 13, 2008. As you all know, there was a foreclosure sale because the original developer, Mr. John Longo, walked away from all his obligations to complete the subdivision and the finish the road. I asked the Board to extend the time under the original tripartite agreement to finish the roadway. The Board voted to extend it to July 1. We now have an offer from a developer who is willing to sign a tripartite agreement and will finish the roadway under the original tripartite agreement. The developer is TKO Builders, LLC and DiGiorgio & Messina Construction, Inc. Richie Williams and their attorney is here tonight. They are willing to sign a tripartite agreement with the Town tonight. It is the same as the original but includes the new developer's name and also I left the date blank when the road is to be completed. The original agreement had a schedule of items to be completed and I did not put those in here. I would like you to consider the agreement and sign it this evening if you agree to this developer finishing out the contract.

Kerri Durning of the Stonehill Law Office is the attorney here tonight for the new developer.

Ms. Durning- I represent TKO Builders and DiGiorgio & Messina Construction. They will do everything necessary to get started and the development and the roadway will be substantially complete by July 1, 2009.

Richie Williams, Engineer – It is our intention in the spring to finish the development and the road. We will be making a lot of progress beginning in the Spring but the development and the road may not be complete by July 1.

Mr. Cracknell- I talked to Dave Varga about what is plan B. Design procurement, construction and pavement would more likely be 5 months. The Town wants to see commencement of construction before July. In order to protect the Town, I would suggest to back up to June 1 to take stock of where we are and make sure the developer makes sure the road will be paved by Oct. 1.

Mr. Williams- We want to have a lot of progress done by July 1 so that we can ask for an extension to finish the road. We want to give the Board comfort early in the year.

Mr. Cracknell- I propose that we agree on a June 1 expiration date that the developer will not be complete but a lot of progress has made. I would also encourage the tripartite agreement be stapled with the 6 page punch list from Dave Varga.

Mr. Williams-We have no problem with that.

Mr. Howard- Is it possible to raise the Tripartite amount?

Mr. Cracknell- The Board decided at a previous meeting that we would leave it at \$214,000.

Ms. Murphy- We have a Purchase and Sale agreement from the developer.

Mr. LaCortiglia- What is the closing date?

Ms. Murphy- Before Christmas. The purchase and sale agreement states that the developer has 30 days to get the septic plans approved by the Town and to get the order of conditions extended by the ConCom. The developer's intention is to get in there to the Board of Health and ConCom next week to get this accomplished.

Mr. Williams- We would request an extension from Con Com to be on the schedule for the 18th of December. We are working on the septic permits.

Ms. Murphy- The developer has signed the Purchase and Sale and the bank will sign tomorrow assuming the Town has signed the Tripartite agreement. The only change to the tripartite agreement is the name of the developer and the date. Also in paragraph 2, I changed the wording to, "Upon approval of the Board, the bank will release to the developers a portion of the withheld funds as specified by the Board." This gives the Board total control. Exhibit A is the original Exhibit A under the original tripartite agreement. I left off the original cost estimates as they are no longer valid.

Mr. Cracknell- The new Exhibit A is from Dave Varga dated 10/16/08 and is the engineer's opinion of cost. Paragraph 4 will have a new date of June 1, 2009.

Ms. Murphy- I don't think the bank will have a problem with the Board wanting to review the agreement for one week and the bank coming back on December 10. The bank can still sign the P & S agreement tomorrow.

Ms. Durning, attorney for the new developer- Cash disbursement to the town for plowing will be executed at closing.

Mr. Cracknell- \$7.45 per linear foot will be held as surety. We will also need a \$4,000 balance in the M-account.

Ms .Murphy- We will be back on December 10th to sign the tripartite agreement once the Board has reviewed the changes to the original agreement.

Parker River Landing – Status of punch list items & surety reduction request

Mark Mastroianni of Pulte Homes is present for the discussion.

Mr. Cracknell- I received a letter from Mark asking for a release of the bond. I sent the letter to Larry Graham who generated a punch list and did a final inspection. Mr. Cracknell refers to Exhibit 11 through 16 in his Draft Agenda comments that was sent to the Board and are on file in the planning office. All the work on the upper portion of the site have been completed according to the plans. The remaining items on the punch list are still incomplete which are grading, berm work and the blocks. Mark Mastroianni has met with the ConCom agent, me and the HOA to get the access easement to cross along the property to Thurlow Street. Pulte no longer has an active access agreement with National Grid. National Grid has raised a lot of issues where they are not likely to grant Pulte an access agreement to grab the blocks until their list of items like the berm, wetlands and pipes being put in to improve their access along their right of way. This would improve National Grid's access. The items being raised by National Grid were never part of the discussions here at the Planning Board. Larry has signed off on all the work except the drainage after the final inspection. The HOA is satisfied so far with what has been done. The berms, the blocks and the drainage are still unresolved issues. We came up with a sketch (Exhibit A- dated 12/3/08). This is a byproduct of Larry Graham, Steve P., Mark Mastroianni and myself. This is the final drawing of how we can deal with this drainage, berm and block issue. Tillie mentioned adding plantings which is what is indicated on this drawing and the direction we are going to take since National Grid is clearly resisting. There is general agreement between all parties as an alternative to handle this situation. I am proposing that we respond to the surety reduction letter which included estimates from Mark for removal of the blocks and alternatives to the berm. We have two invoices from Mark for this work. Larry reviewed the cost estimates and is in general agreement. Steve P. also put together a planting plan amounting to \$15,000. The total cost to do the work would be \$97,000 which when multiplied by 2.5 equals the \$97,000. My recommendation would be to reduce the bond to no less than \$100,000 from a construction standpoint. In order to have the blocks removed, Mark will request from National Grid a temporary access agreement to get the blocks out. I think we should assist Pulte in doing this. The blocks are on Georgetown land. I think if we are co-applicants with Pulte, National Grid will let them in to remove the blocks. It would not be unreasonable that after 6 months if Pulte has not gained access, then Pulte provide money to the Town to remove the blocks on our property. I believe National Grid will do it with Pulte if we are co-applicants with Pulte. National Grid may not want to see the berm. We may have to re-visit this. The planting plan is the easiest, weather depending, which includes retention of the berm near the National

Grid line. The berm is still on Pulte's property. It is not unlikely that National Grid will have issues with alterations to the berm impacting drainage issues on their property. If the ConCom comes back (they are holding \$200,000 in surety), they will take care of the berm removal with the Certificate of Compliance to handle it. You could probably remove the whole berm on Pulte's property for \$7,000.

Mr. Howard- Didn't National Grid want a bridge built?

Mr. Cracknell- Yes. National Grid is also claiming the wetland was not there.

Mr. Howard- When Pulte bought the property, they bought the liability that goes with it.

Mr. Cracknell- The plans show a berm and wetlands being there. The plan shows no removal of the berm but if the ConCOM wants it gone, let them take that on. \$100,000 in surety is enough to cover the estimates to do the work. If we ask National Grid to remove the blocks, I believe that they will do it because they do a lot of business with this Town.

Mr. Carter- Why were the blocks put there?

Mr. Mastroianni- They were put there to prevent off road vehicles from going through there. ConCom asked for them to be put there to preserve a wetland restriction area.

Mr. Cracknell- No matter what you put as the number for the surety, Pulte needs our help in getting the blocks off our property. National Grid has come back with what Pulte feels are unreasonable requests.

Mr. Howard- What happens if National Grid is not happy with our solution?

Mr. Cracknell- Larry said this is a best fit. It will improve the drainage only. Regarding the blocks, if National Grid says "no" to Pulte and "no" to the Town, the blocks either stay there and the money goes somewhere else like for the future Rail Trail. The cost of doing business is for them to work cooperatively with the Town.

Mr. LaCortiglia- The surety currently is \$706,000.

Motion to reduce the bond by \$506,000. That leaves the Board members comfortable.

Mr. Mastroianni- To restate Pulte's position, we believe we have done all the work except for the blocks. Berm and drainage – we have built the project according to the approved plan. We do not have title to National Grid's property with the berm. We did not put the berm there and we never took ownership to the property. Regardless of that, Nick, Steve P., Larry, the HOA and I believe there is a better way of getting it done instead of arguing over the matter. The bond is not there for no apparent reason. I got

the proposed alternative today which I will take to my superiors. Then I can have a real conversation with them about where the Board stands with this issue. If I have a \$500,000 reduction tonight and come back next week and request another \$100,000 after we've come to a solution, then that would be my position. We did all the work that was asked of us. National Grid has not changed their position.

Ed Desjardins and four trustees of Parker River Landing - It would be easier if the berm were removed from the mass electric trail and remove two small portions on our property. Will planting be done in the spring?

Mr. Cracknell- Yes, I would like to support what Mark has asked but also invite him back in one week.

Mr. Carter- Did the Town ask for the blocks to be put there?

Mr. Cracknell- It is not clear whether the blocks were meant to stay or go. The HOA and the ConCom agent want the blocks removed. We are all in agreement that the planting plan is a good one.

Mr. Carter- The bylaw says there is a 2.5 multiplier.

Mr. LaCortiglia- I believe the intent was for the blocks to be put there temporarily.

Mr. Carter- There is a \$100,000 worth of work left with the multiplier. We should not hold Pulte responsible for anything more than the 2.5% which is what our bylaw states.

Ms. Evangelista- The wet issue is the developer's problem. You are not supposed to drain water on someone else's property. I would like to see what will happen with the plantings and it's result for improvement of the drainage problem.

Mr. Cracknell- The plantings are intended to be wild and not maintained. It will not solve the problem but will improve it. There is a comprehensive strategy in place to make it better than what it is today. If National Grid refuses to do anything, we do have a fall back plan.

Mr. LaCortiglia- There are other ways of removing the blocks that are not included on the estimate that we received. Those methods are more expensive.

Mr. Cracknell- Then we ask ConCOM to take on the issue. We found a reasonable way of removing the blocks. I think you are more than covered for the work.

Mr. LaCortiglia- Motion to release \$506,000 from the surety bond to Pulte Builders for Parker River Landing.

Mr. Howard- Second

All in favor? 3-1-1 (Mr. Rich absent and Mr. Carter not in agreement)

Mr. LaCortiglia- Let's give him what he needs to go to the ConCom on Jan. 18th.

Can we get a resolution to that?

Mr. LaCortiglia- I move that the Planning Board resolves that we support the plan titled Exhibit A and the planting plan titled Exhibit B and dated 12/3/08 for Parker River Landing.

Mr. Howard- Second

All in favor? 4-0, Unam (Mr. Rich absent)

Mr. DesJardins - I want to add that the Board has the support from the HOA as well.

{Mr. Cracknell agrees to draft a letter for Pulte that states the support of the Board and the HOA }

Amendments to the Subdivision Regulations – Continued discussion

Mr. LaCortiglia- Move to continue the Public Hearing to Jan 14, 2009.

Mr. Howard- Second

All in favor? 4-0, Unam (Mr. Rich absent)