

DATE: April 14, 2011
TIME: 7:00 P.M.
FOR: Regular Meeting/Public Hearing
PLACE: Large Meeting Room
PRESENT: Jonathan Hankin, Vice Chairman; Suzanne Fowle Schroeder;
Richard Dohoney
Ethan Culleton, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:03 P.M.

FORM A'S:

Michael Parsons from Kelly, Granger, Parsons and Associates was present with a Form A application on behalf of MTA Nominee Realty Trust for two parcels of land located on the east side of North Plain Road. Lot 1 contains 2.948 acres of land. Lot 2 contains 4.984 acres of land.

Mr. Dohoney made a motion to approve the plan as submitted, Ms. Schroeder seconded, all in favor.

MINUTES: MARCH 31, 2011

Mr. Dohoney made a motion to approve the minutes of March 31, 2011 as amended, Ms. Schroeder seconded, all in favor.

Mr. Hankin said he is elevating Mr. Culleton to a voting member.

COMMENTS & CONCERNS:

Mr. Dohoney said the Board of Selectmen desire to make a change to the Housatonic Mills Revitalization Overlay District (HMROD) separate from what the Planning Board approved at the public hearing where we voted to forward a favorable recommendation to the Annual Town Meeting on the bylaw.

Sean Stanton, Chairman of the Board of Selectmen, was present and asked to speak. He said that Town Counsel had advised the Selectmen that they could make the change to be reflected in the warrant. Mr. Stanton said Town Counsel misunderstood that the Planning Board did not support the change of SPGA from the Planning Board to the Selectmen. So, the Selectmen can not make the change without the Planning Board agreeing to it so the bylaw goes to Town Meeting as written and recommended from the Planning Board. A motion would have to be made on Town Meeting floor to make the change.

Mr. Dohoney said he did not think the Selectmen could make the change without the Planning Board's approval. He said it is good that we now agree on that matter.

Mr. Stanton said he would like to suggest that an amendment would be made at the Town Meeting. He said it has not been discussed with the Selectmen but he felt the Selectmen would be in agreement to offer the amendment. He recognized that the Planning Board

had worked hard to get the bylaw ready in time for Town Meeting but the bylaw hadn't actually come from the Planning Board as much as it had come from the perspective developer.

Mr. Hankin said the developer through his representatives offered a model bylaw that we worked on to adapt it to the needs of Housatonic.

Mr. Stanton acknowledged that the Planning Board spent a lot of time working on it we want what is best for Housatonic. If the Planning Board is the SPGA it is likely that the bylaw would not pass at Town Meeting. The Planning Board is the SPGA for only three types of special permits. The Selectmen are the SPGA for all the others. The Planning Board continues to have Site Plan Review that is binding. Mr. Stanton said he is concerned that the necessary checks and balances would not be in place if the special permit process is streamlined through the Planning Board.

Mr. Stanton said if the bylaw did not pass at Town Meeting it would be two years before it could be presented again.

Mr. Hankin made it clear that if the SPGA is changed to the Board of Selectmen at Town Meeting he would vote against it. Mr. Hankin said the bylaw might not pass if the two boards are not in agreement. Mr. Hankin said the bylaw was written with the idea that the Planning Board would be the granting authority, it would have been written in a very different manner if the Selectmen were to be the granting authority. He said the Planning Board brings more expertise to the table. The Selectmen do not have expertise in zoning.

Mr. Stanton said if the two boards can not agree then the article should be passed over at Town Meeting and look at it again. Mr. Stanton said he did not think one board should have authority through site plan review and special permit granting authority.

Mr. Hankin said it would be unfortunate to argue over this at the Town Meeting.

Mr. Stanton suggested it would be best to resolve the issue prior to the Town Meeting.

Mr. Dohoney pointed out that the whole point of the bylaw was to streamline the permitting process. It is a time proven process for redevelopment. He said he understands the checks and balances. He said this is a nice idea for the bureaucracy but it is not to the benefit of redevelopment.

Mr. Stanton said the people in Housatonic do not want one board in charge of everything.

The discussion digressed so the Planning Board moved on to the next item on their agenda.

PUBLIC HEARING: MALIK DEFINITIVE SUBDIVISION PLAN

Ms. Schroeder made a motion to open the public hearing for the Malik definitive subdivision plan, Mr. Dohoney seconded, all in favor. The public hearing was opened at 7:20 P.M.

Mr. Hankin read the public hearing notice into the record. The public hearing notice was published in the Berkshire Record on March 25, 2011 and April 1, 2011. The public hearing notice was posted in the Town Hall and Police Department. The abutters were notified as were the nine towns abutting Great Barrington and BRPC.

Mr. Hankin announced that the public hearing was being recorded.

Michael Parsons and Chris Tryon were present from Kelly, Granger, Parsons and Associates along with Tyler Malik, the applicant.

Mr. Parsons began saying the property of Mr. and Mrs. Malik is located on Hurlburt Road. The plan titled Kino Lane shows a two lot subdivision in the R-2 zone. Mr. Parsons read the project narrative from the application titled "Definitive Plan of Kino Lane" dated February 10, 2011. Mr. Parsons also read through the waivers outlined in the application.

Mr. Tryon addressed the engineering of the plan. He said a portion of the existing driveway would be used to minimize fill. A new curb cut would not be required. He said the road would be approximately 12 feet in width. A larger 18 inch culvert will be installed to replace the 15 inch culvert currently in place. The culvert drains to the north. Rip rap will be used near the invert to minimize erosion. A curtain drain will run the length of the road on the south side. It will be installed four inches below grade with grass swales at grade to handle the surface water.

Mr. Parsons said once the road has been constructed the existing driveway will be discontinued, top soiled and seeded.

Mr. Tryon said the road will be 666 feet in length with a hammerhead turn around to provide access for the driveway and parking area for the new house. The house site will be elevated due to the high water table. The septic system will be east of the house. There would be a maximum 4-1 slope. The slope will tie into the existing slope so there won't be the appearance of a raised mound.

Ms. Schroeder asked if this house would tie into the geo-thermal well.

Ms. Malik said no, solar panels will be used for heat and hot water.

Mr. Hankin asked if the footprint was accurate.

Ms. Malik said the footprint is not totally accurate but it is close. She said the plans are not quite finished.

Seth Stockwell an abutter from 140 Hurlburt Road said he had concerns about the water from the property being drained into the abutting wetlands.

Mr. Tryon said there will be no increase in runoff from the site. The road will be gravel and the site currently drains toward the wetlands. The runoff from the house site will drain to the back.

Mr. Hankin said this area was an agricultural use and it would be the preference for it to remain agricultural rather than suburban.

Ms. Schroeder said ecologically-speaking, trees introduce predators to grassland birds

Ms. Malik said she would be amenable to whatever is best for the birds on the site.. She said she would research what trees would be the best for the species of birds in the area.

Ms. Schroeder said a good guess could be made. It is difficult to maintain the existing habitat.

Ms. Malik said she is building a one story house. She said she had done a lot of checking to make sure the land could be divided for a second house. The zoning is adequate. She said she will do whatever is best for the animals and birds as they are part of the attraction to the location.

Mr. Tryon went over the layout of the road and the cross section of the roadway on page three of the plans. There will be a grass swale on each side of the road with a curtain drain on the south side. The existing sub-base is gravel and adequate. The finish road would be 12 inches of compacted gravel with 3 inches of airport mix to finish. The new house end of the driveway would be paved for a basketball court.

Mr. Hankin (kneejerk reaction perhaps?) opened the discussion to the audience.

Nicholas Sotis who owns land at 139 Hurlburt Road read a prepared statement attached to the minutes. Mr. Sotis is opposed to the subdivision.

Mr. Sotis read a letter from Carol Emerson, an abutter, into the record. The letter was submitted and attached. Ms. Emerson is opposed to the subdivision.

John Morris, an abutter, said he agreed with Mr. Sotis and requested that the plan be rejected.

Terrance Cooney an abutter at 148 Hurlburt Road agreed with Mr. Sotis and Mr. Morris voicing opposition to the plan.

Helen Stockwell from 140 Hurlburt Road read a letter from an abutter, Carol Jones from 141 Hurlburt Road expressing opposition.

Ms. Malik spoke to the opposition. She said Mr. Sotis had gathered the neighbors to block the plan. She said the field has been a big open field and if it could have remained so it would have been ideal but the land was divided prior to my purchasing it. She said she doesn't have to cut trees it is a great solar site. Ms. Malik said she looked carefully to decide where it would be best to place the house. The placement shouldn't have drainage impact on Mr. Morris' property or Mr. Sotis' property. She said she believes she hired the best person to make everything fit and she would be willing to make further adjustments if it were necessary.

Ms. Malik said her proposed house isn't any different than the proposed houses of Mr. Sotis or Mr. Morris as far as impact. She said she tried to be as considerate as she could be.

Mr. Parsons said he is appalled that two people who haven't built on their property are trying to dictate what someone else should build or not be allowed to build. He said there have been some wild accusations and he wanted to be clear that the Conservation Commission had approved the plans as well as the Board of Health. The nitrogen levels would not be increased in the wetlands. Ms. Malik's house will drain away from the wetlands.

Mr. Parsons said Mr. Sotis was present when the Board of Health approved the plan. He said it is a little late to raise issues that don't pertain. This hearing deals with zoning. Mr. Parsons said the plan had been designed according to the subdivision regulations. There are waivers requested but otherwise the plan complies with zoning and the regulations. Mr. Parsons explained for the benefit of the audience that should the Planning Board deny the plan because of the waiver requests a fully compliant plan would be submitted and entitled to approval. He said this is not going to go away. The Maliks are entitled to approval.

Patricia Kiowski of 121 Hurlburt Road asked if the subdivision approval would set a precedent.

Mr. Dohoney said it doesn't set a precedent because if a lot fits the criteria it is entitled to approval. Allowing this does not set a precedent because the law allows it.

April 14, 2011
Page 6

Mr. Sotis said Ms. Malik said she would be willing to work out the differences. He said he looks forward to that conversation. He said he respects the authority of the Planning Board.

Mr. Hankin said it is unfortunate what has happened here. He said this land is a prime location for an Open Space Residential Development (OSRD). The three abutting land owners could rethink all of this and consider an OSRD that would allow for the land to be conserved. The houses would be much closer together but it is an option for addressing the complaints voiced tonight.

Mr. Dohoney said there would be more flexibility but it is asking a lot to expect the plans to be redrawn.

Mr. Hankin said it might be a good idea to give further thought to the plan.

Ms. Malik said she is not aware of OSRD or how it could be done.

Mr. Hankin said all of you, (Mr. Morris, Mr. Sotis and Ms. Malik) would have to work together.

Ms. Schroeder said there would be a trade off of density to preserve open space.

Mr. Hankin said normally the OSRD would have been done by the person who owned the land prior to dividing it.

There was some discussion of the OSRD.

Mr. Hankin said the Fire Chief would prefer for Ms. Malik to have a Hurlburt Road address.

Ms. Malik said that wouldn't be a problem.

Mr. Hankin asked who would own the subdivision road.

Ms. Malik said she would own the road but it will be maintained with the owner of the other house.

Mr. Parsons said usually one person owns the road and the other has the right to use it.

Mr. Rembold said the road would not be a public road.

Ms. Malik said no.

Planning Board
April 14, 2011
Page 7

Mr. Hankin said he would like to give the applicant the opportunity to consider the OSRD. He said the Planning Board would like to conduct a site visit and asked that the center line be flagged in advance of that visit.

Mr. Dohoney asked that the waivers be read through one more time.

Ms. Schroeder suggested that a landscaping plan might address some concerns of the abutters.

Mr. Hankin said he wanted to have the public hearing continued to a date certain and to conduct the site visit prior to the continued public hearing

Mr. Dohoney made a motion to continue the public hearing to May 12, 2011 at 7:15 P.M., Ms. Schroeder seconded, all in favor.

The site visit was set for 6:00 P.M. on May 12, 2011.

Mr. Dohoney made a motion to adjourn, Ms. Schroeder seconded, all in favor.

The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

Kimberly L. Shaw
Planning Board Secretary