

DATE: May 12, 2011  
TIME: 7:00 P.M.  
PLACE: Large Meeting Room  
FOR: Regular Meeting/Continued Public Hearing  
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle Schroeder; Richard Dohoney;  
Ethan Culleton  
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 P.M.

**REORGANIZE:**

Mr. Dohoney made a motion for Mr. Hankin to be the Chairman, Ms. Schroeder seconded, all in favor.

Mr. Dohoney made a motion for Ms. Schroeder to be the Vice Chairman, Mr. Culleton seconded, all in favor.

Ms. Schroeder made a motion for Mr. Dohoney to be the clerk, Mr. Culleton seconded, all in favor.

Mr. Dohoney made a motion for Mr. Culleton to be the Planning Board representative to BRPC, Ms. Schroeder seconded, all in favor.

Mr. Dohoney made a motion for Ms. Schroeder to be the Planning Board representative to the Lake Mansfield Task Force, Mr. Culleton seconded, all in favor.

Mr. Dohoney made a motion for Mr. Hankin to be the Planning Board representative to the Design Advisory Committee, Ms. Schroeder seconded, all in favor.

**FORM A's:**

There were no Form A's presented.

**MINUTES:**

Mr. Dohoney made a motion to approve the minutes of April 14, 2011 as amended, Ms. Schroeder seconded, all in favor.

Mr. Dohoney made a motion to approve the minutes of April 28, 2011 as amended, Ms. Schroeder seconded, all in favor.

**CONTINUED PUBLIC HEARING: MALIK**

Mr. Dohoney made a motion to continue the public hearing on the definitive subdivision plan for Tyler Malik, Ms. Schroeder seconded, all in favor.

Michael Parsons from Kelly, Granger, Parsons and Associates was present with Tyler Malik.

Mr. Hankin said the Planning Board conducted a site visit at 6:00 P.M. to the property located on Hurlburt Road.

Mr. Parsons began the presentation. He addressed flyers that had been circulated through the neighborhood giving the impression that there would be 12 houses built on the property. Mr. Parsons said he wanted to make it clear that there is currently one house on

the property and a second house would be built behind that house using part of the existing driveway as the new road. He said the unused portion of the existing driveway would be grassed over; there will not be two driveways.

Mr. Parsons said most of the issues had been discussed at the first public hearing. He said he had a copy of the Conservation Commission's negative finding for determination of applicability.

Mr. Hankin said the Planning Board had received a copy as well.

Mr. Parsons said everything associated with the plan had been filed in accordance with the subdivision control law. It has been determined that this project would have no impact on the wetlands.

Mr. Parsons addressed an allegation by Nicholas Sotis, an abutter. Mr. Parsons said that it had been alleged that the new septic system on the Malik property would impact an abutting property owned by John Morris and the septic system for the existing house was not in compliance with state code. Mark Pruhenski, Board of Health Agent, reviewed the plans and the existing system and determined that the plans for Mr. Morris' septic system missed a drain for the existing house. Mr. Pruhenski determined that the septic plan proposed for Mr. Morris does not meet minimum standards to permit a septic system. He and the Board of Health also determined that Ms. Malik's septic system plan is fully compliant and properly permitted.

Mr. Parsons said the only outstanding issue is if the Board is going to grant the waiver for shade trees to be planted along the road. Ms. Malik has agreed to plant the trees along the road if the Board determines they are necessary.

Mr. Parsons said the Board at the first public hearing asked Ms. Malik to meet with the abutters to see if a plan could be put together to cluster the houses in an effort to maintain open space. Mr. Morris ran into some issues with the Conservation Commission so Ms. Malik offered him access to his property from her proposed road. At this time he has declined her offer. Mr. Morris began construction of his driveway without a permit from the Board of Selectmen or review from the Conservation Commission. He is in violation of the Wetland Protection Act. Ms. Malik attempted to help her neighbor with this issue and she feels that she has attempted to work with her neighbors.

Mr. Hankin asked if the Board had any questions, there were none so he opened the meeting to questions from the audience.

Geoffrey House from Hurlburt Road was present. He asked the Board how they had allowed this proposed house to be considered to be built on a piece of property that had been contaminated by oil and was located in a wetland.

Maureen Hickey from 55 Hurlburt Road said she watched the white house being built and it was under water during construction. She asked why the property could be ruined by allowing another house on the property. She said Hurlburt Road is one of the most beautiful roads in town and it is a disgrace that the Planning Board and Conservation Commission would allow it to be developed in this manner.

Ms. Schroeder addressed both comments saying that wetlands are not the purview of the Planning Board. Wetlands have to be delineated through a process in order to be considered wetlands for the purposes of the Conservations Commission's review. The Conservation Commission hears all wetland issues based on vegetation, soil and hydrologic features. It is not our issue therefore we have to take the word of the Conservation Commission when they make their determination.

The existing white house was required to meet the zoning setback requirements prior to getting a building permit. As long as the setback requirements are met people can locate their building where they choose.

Mr. Dohoney said the Planning Board did not divide the property as it has been configured. That was done by the person Ms. Malik purchased the property from. It is not an ideal way to divide the land but it was his right to do it that way. Each parcel meets the frontage requirements and acreage requirements so the lots are legal. We must endorse plans that comply with the zoning bylaws.

One of the abutters asked if it wasn't the Planning Board's responsibility to prevent this type of urban sprawl.

Mr. Dohoney said it is not within our control to tell people what to do with their land. If a division of land complies with zoning then we have to endorse it. It is not up to us to design how land will be divided.

Ms. Schroeder said the Planning Board created the Open Space Residential Development bylaw that encourages land to be divided with open space preservation as a focus. We have provided a way to preserve the land but land owners must choose to use it.

Mr. Parsons asked if he could address Mrs. Hickey's statement about the land being in a wetland. He said not all land that is wet is subject to the Wetlands Protection Act. Generally land that borders a river, lake or stream is considered a wetland. Just because a property has a high water table doesn't mean it is a wetland.

Mr. Parsons said his client did not divide the land. She purchased it as it is with the existing house. If there was an oil spill during the construction of that house it is not Ms. Malik's responsibility. Not every property can be preserved.

Mrs. Hickey said her concern is for Tyler.

Mr. Hankin said that this conversation is not germane to our discussion of the road.

Mr. House said he wanted to speak because he has concerns about the way the land in Town is being developed. Even though there is nothing that can be done something should be said.

Mr. Hankin said the worst fear is for all the agricultural land to be developed, but unless it is purchased for preservation nothing can be done.

Mr. Sotis from 139 Hurlburt Road said he had observed that the wetlands do go to the Green River.

Mr. Hankin said it is not our purview.

Mr. Rembold noted that there is, in fact, a hydrological connection between the land and the Green River.

Helen Stockwell from Hurlburt Road said she has a shallow well. She said she has concerns about the effects of developing that land on her well.

Mr. Parsons said Massachusetts had one of the strictest sanitary codes in the country. Septic systems are required to have a four foot separation from the high ground water line; that is why many are mounded. The water in a well is subsurface water. It does not get water from the surface. This septic system is not going to impact your well.

Mr. Parsons said there may well be a hydrological connection between this property and Green River but Mr. Sotis claims there is a tributary on the property that goes to the Green River. There is a ditch. The ditch does not have running water. It drains water from the property into the culvert.

Mr. Hankin said the Board is only concerned with the runoff from the proposed road.

Mr. Sotis asked for the letter from the Conservation Commission to be read.

Mr. Hankin read the letter dated March 31, 2011.

Mr. Sotis asked if the Board would discuss the site visit.

Mr. Hankin said there wasn't much to discuss from the site visit. We had asked that the center line be flagged and it was. The house site was also delineated. We observed the property lines and Mr. Morris' proposed reserve septic area.

Mr. House wanted to know if the subdivision road could be used to provide frontage for other lots, like Mr. Morris' lot if he wanted to put up another house.

Mr. Parsons said no one would be able to use the road for frontage without permission from both Ms. Malik and the Planning Board. The road is private.

Mr. Hankin said the application is for a two lot subdivision. The two lots shown on the plan we are discussing are the only two lots allowed to have frontage on the road.

Mr. Dohoney said it would have been good to have these land owners work out an agreement to better use the land but it is clear the boundary lines have been drawn.

Ms. Malik said she had tried to work things out with Mr. Sotis and Mr. Morris.

Mr. Sotis said he would be willing to have Ms. Malik purchase his property in order to preserve the land where she plans to build her house. Mr. Sotis presented documents for the Board to review regarding his research on the property.

Mr. Hankin said the purchase of Mr. Sotis' property is not part of our purview tonight. That would have to be worked out between the two of you. We need to focus on the road.

Mr. Hankin asked if anyone had any additional comments or anything we hadn't seen. There were no comments.

Mr. Rembold said the information Mr. Sotis presented should be reviewed and made part of the public record.

Mr. Dohoney said he would like to discuss the waiver request for the street trees while the abutters were present to get their opinions.

Mr. Hankin said if the applicant presented a fully compliant plan we would be required to approve it. They are asking for waivers that we may grant or deny.

Mr. Rembold said some of the waivers are for filing requirements some are for technical requirements.

The Board went through the waivers. They started discussing the waiver for street trees.

Mr. Parsons said it is Ms. Malik's preference to not have trees lining the roadway but if the Board finds it necessary she will plant them.

Mr. Dohoney asked the audience if they had an opinion.

Mr. Hankin said the roadway is about 660 feet long which would mean that there would be approximately 20 trees if planted at 50 foot intervals as required by the subdivision control regulations.

Mr. House said he would not want to see a line of trees along that road.

Mrs. Stockwell said she would not want to see trees along Hurlburt Road.

Ms. Schroeder said the field is not ecologically rich. Trees in a grassland could introduce predators. She said a row of trees, aesthetically, could be as strange as the houses. She suggested that randomly placed trees, as in a parkland ecosystem, might be more aesthetically pleasing and reduce the jarring effect of the new houses.

Mr. Hankin asked is she meant to cluster the trees instead of planting them in a line.

Ms. Schroeder said or have them randomly placed.

Mr. Rembold said if you are going to require them to be randomly placed then a landscape plan would be necessary.

Mr. Hankin said he is inclined to have a landscaping plan anyway.

The Board did not find any other issues with the other waiver requests. They did ask that calculations be provided to demonstrate that an 18 inch culvert could handle any runoff and to verify the size of the pipe under Hurlburt. If the proposed upstream culvert was equal to the existing culvert under Hurlburt, drainage calculations would not be necessary.

Mr. Dohoney said it would be best not to close the public hearing. He suggested the public hearing remain open and continue discussion of the plan at the June 9, 2011 meeting.

Mr. Rembold suggested that the submittals —landscape plans and Mr. Sotis' research— be reviewed prior to the June 9 meeting.

Mr. Dohoney agreed asking Mr. Rembold to forward the information, including Mr. Sotis' submittal, for review prior to the June 9 meeting.

Ms. Schroeder made a motion to continue the public hearing to June 9, 2011, Mr. Dohoney seconded, all in favor.

**CONTINUED DISCUSSION OF ALDEN PRELIMINARY SUBDIVISION PLAN:**  
Michael Parsons was present to address questions raised at the last meeting regarding the preliminary plan submitted on behalf of Dale and Sandra Alden for 12 lots off of North Plain Road.

Mr. Parsons said the sight distance at the proposed road location had been discussed. He said he had parked his truck at the proposed location and the sight distance was approximately 400 to 500 feet. The law requires a sight distance of 305 feet in a 40 mile per hour zone.

Mr. Parsons said the road could be moved north to provide a little better sight distance. A traffic engineer could be consulted. He said the sight distance is adequate but it could be improved.

Mr. Parsons showed the plan with house layouts of 30x60 and garages of 24x24 to demonstrate how they could be located within the building envelopes. He also added in the lot sizes for the abutting lots to show that the proposed lots are in keeping with the neighborhood.

Mr. Parsons said he would like to have a meeting with the neighbors prior to the definitive subdivision submittal. He would like to invite the neighbors to view the plans to see how the new neighborhood would fit and get their feedback on what they might like to have to make it less contentious.

Mr. Hankin suggested that the long axis of the houses be shown on the plan oriented east west maximizing solar exposure. It would also orient the houses more in keeping with the neighborhood.

The Board encouraged Mr. Parsons to have a meeting with the neighbors.

There was discussion of the road location and sight lines. The Board thought it might be good to see the road in the alternate location.

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Michael Powell from 7 Comstock Lane said he was saddened that a nice piece of property will have 12 houses on it. He said it is happening all over but it hard to see.

Mr. Dohoney made a motion to approve the plan for the purposes of discussion, Ms. Schroeder seconded for the purposes of discussion.

Ms. Schroeder asked what approval of the preliminary plan would mean.

Mr. Hankin said the preliminary plan freezes zoning and it provides guidance for the applicant.

Ms. Schroeder said she is concerned that the plan works for the neighborhood.

Mr. Dohoney suggested looking at other types of models for positioning the houses. He said backyards to backyards are not common in this area so it is less appealing.

Mr. Hankin called for a vote on the motion to approve the preliminary plan, all in favor.

**RULES AND REGULATIONS:**

Mr. Rembold said he had made some minor changes to the Planning Board Rules and Regulations. He said he added the joint protocol with the Selectmen for HMROD. He quickly went through the draft as amended.

Mr. Dohoney made a motion to approve the Rules and Regulations as amended, Ms. Schroeder seconded, all in favor.

**TOWN PLANNER REPORT:**

Mr. Rembold said the Planning Board is not required by Town Code to review driveway permit applications. He said from now on driveway permit applications will be reviewed and commented on by staff unless there is an issue that should be brought to the Board's attention.

The Board was happy to have the permits reviewed by staff.

**COMMENTS & CONCERNS:**

Mr. Culleton asked how the fees were determined.

Mr. Rembold said the fees were set in the bylaws. They are low, especially if there is a permit that requires a great deal of review by staff.



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Mr. Dohoney suggested that maybe Mr. Rembold could review the fees and comment. He said this could be looked at for the future.

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

Having concluded their business, the meeting was adjourned at 9:49 P.M.

Respectfully submitted,

Kimberly L. Shaw  
Planning Board Secretary