

## MINUTES

April 14, 2008

Millbury Planning Board

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The regularly scheduled meeting of the Millbury Planning Board was held on Monday, April 14, 2008, at 7:15 p.m., in the Municipal Office Building, 127 Elm Street, Millbury, MA. Chair Anna Lewandowski presided.

Present: Brian Stowell, Anna Lewandowski, Scott Mueller, Rusty Valery, Richard Gosselin, Peter Caruso, Jr.

### **7:15 p.m. Oakes Circle Bond Update**

Developer has advised the Planning Board that he is involved in litigation with the construction company that was performing the site work. The bonding company has advised that it will not honor the town's request to release the bond.

Motion by Brian Stowell, seconded by Richard Gosselin, to give the bonding company a thirty day notice to forward a written response to the Board's request to take the bond, or the Planning Board will begin litigation to obtain it. Motion carried unanimously.

### **7:30 p.m. Warrant Articles Public Hearing**

Clerk Valery read the public hearing notice. Mr. Stowell read letter dated April 14, 2008 from Selectman Moore regarding the proposed rezoning to BII a portion of the RII district containing 9 lots along McCracken Road, and a portion of the SIV district containing 6 lots between Park Hill Avenue and Martin Street.

Chair Lewandowski opened the meeting to the public for the first warrant article regarding rezoning along McCracken Road.

Residents indicated the following concerns:

- Types of business which would be allowed with the zoning change
- Lack of traffic impact study
- Mitigation of traffic concerns
- New road improvements
- Lack of cooperation with town regarding one way proposal and lack of evaluation after the roadway was reopened to traffic
- If the reason to change zoning is linked to a reduction in the waiting period from 10 years to 5 years for road improvement funding from the state, this is not a valid reason for a zoning change
- Request to make McCracken Road one way from the Shoppes to Greenwood Street, concerns that the additional traffic calming measures such as the additional stop signs and speed bumps were removed
- Additional negative impact to quality of life

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Chair Lewandowski opened the meeting to the public for the second warrant article regarding rezoning between Park Hill Avenue and Martin Street.

Residents indicated the following concerns:

- Mr. James Boucher, 55 Martin Street, spoke in opposition for the reason that he owns three adjacent parcels in this location and only one of them has been included in the proposal to rezone. He had previous discussions with the Board of Selectmen on this issue last year, and was told that all of his land would be included this year, when it would be back on the warrant. He advised the Planning Board that none of the parcels scheduled for re-zoning would have adequate frontage to meet the requirements of a BII zone.

Chair Lewandowski opened the meeting to the public for the designation of McCracken Road as a scenic road.

Residents asked about impact on future development. Cindy Burr, Historical Commission Chairperson, advised the Board that this road is not one of the very oldest roads in town, but it is within the second tier of roadways.

Clerk Valery read letter dated April 11, 2008 from the Conservation Commission, which had no comment at this time.

No comments were received on warrant articles regarding amendment to Zoning Bylaws, Article 1, Section 12.44 and 12.49.

Motion to close the public hearing by Richard Gosselin, seconded by Scott Mueller, motion carried unanimously.

The Planning Board will discuss its recommendations during its April 28, 2008 meeting at 7:45 pm.

### **8:30 p.m. Mangano Estates Public Hearing, cont.**

William Hannigan, Hannigan Engineering was present to review the discussions he has had with member Richard Gosselin regarding mitigation efforts for potential problems with the existing gabion wall on abutting property. He reviewed the title work by Adams Title Co. and a reference note will be added to the plan.

A plan depicting watershed and wetland system impacts was reviewed.

Brian Turbitt, 52 Lexington Road asked if water would be diverted between the Coldbrook Road Subdivision and Paul Revere Village, and Mr. Hannigan indicated that it would not and showed him the point of discharge. Mr. Turbitt was also concerned with

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water pressure once the two new subdivisions are hooked into the system. Mr. Hannigan submitted improvements to water mains which they will be responsible for.

Mrs. Lewandowski added that she has asked for a hydrogeologist report for the exact direction of water, and advised that water is coming up from driveways now. She also had issues with the vernal pools located on the property and the effect on the stone wall at the beginning of the roadway. Mr. Hannigan explained the post-construction plan for water discharge and advised that a portion of the wall would be removed for road layout, but if the wall is on private property it will not be touched.

Mrs. Lewandowski asked about a second access, and the use of a minor road to access the subdivision. No notice of intent was applied for through the Conservation Commission. She had additional concerns with the environmental analysis.

Motion to close the public hearing by Brian Stowell, seconded by Richard Gosselin, motion carried unanimously.

Developer has indicated that no further extensions will be granted to the Board. Mrs. Lewandowski was not ready to discuss the conditions at this meeting. She had further concerns with cut and fill - whether the submitted report took into consideration the house foundations, and she also had traffic study questions.

Motion by Brian Stowell, seconded by Richard Gosselin, to approve Braney Road Realty Trust's application for Definitive Plan entitled "Mangano Estates, A Definitive Subdivision Plan in the Town of Millbury", dated June 7, 2006 revised through December 20, 2007, prepared by Hannigan Engineering, and consisting of 29 sheets subject to conditions a – zz.

Motion to rescind the original motion by Brian Stowell and by Richard Gosselin.

Waivers:

Motion by Brian Stowell, seconded by Richard Gosselin to grant waiver from Section 6.0.5.3: waive the requirements to show individual trees greater than 12" in diameter at breast height, as the site is densely wooded in a natural state, with the following conditions:

Significant trees (trees of 12" caliper, 4' above finished ground level) within 20' of the right-of-way shall be identified in the field prior to clearing. The Town Planner and developer shall walk the site together and mark those trees that can be preserved. These existing trees shall serve as street trees in lieu of planting all new street trees.

The following recommended measures shall be used for the protection of existing trees:

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- A. Wherever possible, there shall be no operation of heavy equipment or storage of any materials under said tree within its natural drip line.
  - B. Wherever possible, no grading or filling should be done within the drip line.
  - C. No bituminous concrete paving or vehicle parking should be located under conifers. No more than twenty percent (20%) of the area under any deciduous tree's natural drip line may be so paved.
  - D. All drainage from paved areas should be directed away from root zones.

Motion carried on a 4-1-0 vote. Anna Lewandowski was opposed, and stated as her reason that only those trees necessary for homes and roadway construction should be removed

Motion by Brian Stowell, seconded by Richard Gosselin to grant waiver from Section 7.06.: waive the requirements that granite monuments 6" x 6" x 4' with a 3/8 drill hole in the center are to be furnished and set at the intersections of lot lines and street right-of-way and that all monuments must be in place prior to application for a building permit, with the condition that all areas of monumentation shall be staked and maintained prior to street construction. All monuments shall be installed prior to street acceptance. Motion carried on a 4-1-0 vote, Anna Lewandowski was opposed.

Motion by Brian Stowell, seconded by Richard Gosselin to approve the application to allow 50 single family residential lots and construction of 49 single family homes, related roadways, landscaping, lighting, drainage and associated infrastructure as shown on plan entitled "Mangano Estates, A Definitive Subdivision Plan in the Town of Millbury", dated June 7, 2006, revised through December 20, 2007, prepared by Hannigan Engineering, subject to conditions a – zz . Motion carried on a 4-1-0 vote. Anna Lewandowski was opposed.

She stated as her reasons the following:

- Secondary access does not satisfy the requirements of the Town's Subdivision Rules & Regulations, Zoning Bylaws, Section 22.21
- No hydrogeologist report was received by the Board although she repeatedly asked for one
- 100 foot interval studies to determine amounts of ledge were not conducted
- The Board did not consider the letter it received from the botanist which advised that the removal of the trees would cause water problems
- No notice of intent has been filed with the Conservation Commission
- Traffic report was inadequate
- Original plan was signed by the developer of the abutting project
- Water issues are the biggest concern

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### **9:20 p.m. Vassar Estates, 126 Grafton Street, Public Hearing, cont.**

Norman Hill, Land Planning was present and stated that all comments from Graves Engineering and the Town Planner have been addressed.

Mr. Gosselin expressed concern with water flow and potential problems for abutters. Mr. Hill advised that there was an addition to the plan to treat water runoff by collecting and diverting through swales to a rain garden which will then seep into the ground.

The Board had concerns with the construction of a duplex on this lot.

There were no comments from the public.

Motion by Rusty Valery, seconded by Brian Stowell to close the public hearing. Motion carried unanimously.

#### Waivers:

- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 6.7.6 and Section 8.5.g: the roadway pavement width shall be reduced to 14'. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 6.13: construction of sidewalk is waived. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 6.10: construction of curb is waived. Motion carried unanimously.
- 6.5.2: installation of trees is waived. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 6.6.4.e: allow only one 30' rounding at the property lines intersection. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Rusty Valery to grant waiver from Section 6.15 and 6.16: no extension of sewer or water mains into the project, motion carried unanimously.
- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 5.3.1 b: allow submission of a locus plan at a scale of 1" = 200', motion carried unanimously.
- Motion by Brian Stowell, seconded by Rusty Valery to grant waiver from Section 5.3.1 n: waive the soil surveys and /or test pits or borings every 100' along proposed roads. One deep hole test pit shall be conducted at the anticipated stormwater management facility. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Scott Mueller to grant waiver from Section 8.5.g: required installation of a t-shaped turnaround within the roadway right-of-way is waived. Motion carried unanimously.
- Motion by Brian Stowell, seconded by Rusty Valery to reduce the application fee from \$2,500 to \$1,000. Motion carried unanimously.

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- Motion by Brian Stowell, seconded by Richard Gosselin to deny the applicant's waiver request to allow installation of 4" x 4" x 3' concrete bound instead of granite (Section 6.9). Motion carried unanimously.

Motion by Brian Stowell, seconded by Rusty Valery to grant the application to allow the construction of a two lot optional residential compound subdivision as shown on the plans entitled "Vassar Estates, Definitive Subdivision Plan, Grafton Street, Town of Millbury, Massachusetts" dated January 9, 2008, revised March 10, 2008, prepared by Land Planning, Inc., 214 Worcester Street, Grafton, MA, and consisting of three (3) sheets, subjects to conditions a – ee. Motion carried unanimously.

### **9:45 p.m. 50 Stowe Road Definitive Subdivision – Pre-Application Questions Regarding Fees**

Clerk Valery read letter from Fred Paige dated March 24, 2008 requesting a reduction in fees. Ralph Romano from Global Engineering Consultants will file an application under the Optional Residential Compound Bylaw for property located at 50 Stowe Road. A waiver for roadway width will also be requested.

The current application fee is \$2,950, the current technical review fee is \$7,500.

Motion to reduce the application fee to \$1,000 by Brian Stowell, seconded by Rusty Valery, motion carried unanimously.

Motion to reduce the technical review fee to \$5,000 by Brian Stowell, seconded by Richard Gosselin, motion carried unanimously.

### **9:50 p.m. Dryden Estates, 124 Grafton Street, Public Hearing, cont.**

Norman Hill, Land Planning was present.

There were no public comments.

The Board discussed the elimination of the use of swales, and the addition of an easemtn to the plan.

Motion to continue the public hearing to April 28, 2008 at 6:45 p.m. by Brian Stowell, seconded by Scott Mueller, motion carried unanimously.

### **May 26, 2008 Meeting Date**

Motion by Brian Stowell, seconded by Rusty Valery to cancel the regular meeting scheduled for Monday, May 26, 2008, due to the Memorial Day holiday, motion carried unanimously.

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**Other Business**

- Mrs. Lewandowski identified a problem with a driveway on Diana Hill Drive and road runoff. Town Planner Connors will address this with the DPW Director and the developer.
- Clerk Valery read letter from the Conservation Commission regarding Autumn Gate Estates, advising that the applicant must re-file the notice of intent as the present one has expired.
- Mr. Valery advised the Board of his concern with the number of teenagers that hang around the Shoppes, creating a disturbance there. He suggested setting a curfew or requiring a parent to be present after 9:00 p.m. The Board agreed that this was a matter for the police department to handle.

**Adjournment**

Motion to adjourn by Brian Stowell, seconded by Rusty Valery, motion carried unanimously. Meeting adjourned at 10:15 p.m.

Respectfully submitted,

Susan M. Dean

ATTEST:

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