

**PLANNING BOARD MEETING
JUNE 12, 2013**

Members Present: Arthur Stockus, Chair; Troy Osgood, Vice Chair; Susan Mooney, Secretary; Hal Ratter, BOS Representative; John Morin; Dirk Grotenhuis; Ed Viel; Robert “Buzz” Davies, Alt;

Members Absent: Gary Anderson, Alt; Traci Chauvey, Alt

Others Present: Paul Colby, Building Inspector/Code Administrator; Jo-Ann MacInnis, Land Use Clerk; Joseph Falzone, Applicant; Christian Smith, Beals Assoc., PLLC

Chair Stockus call the meeting to order at 7:00 pm. All present introduced themselves. Mr. Davies was seated and participating but not voting.

Public Hearing – The Crossings – Friar Tuck Lane and Oakridge Road

Chair Stockus read the first case of the evening:

Case #P13-02-SUB – The Crossings – 153 acre parcel which fronts both Friar Tuck Lane and Oakridge Road – Map 10 Lot 10, Maps 8 & 10, Lots 9 & 10 – Application for a proposed open space forty-two (42) lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian M. & Jennifer Spagna, Seth F. & Pearl I. Peters.

Christian Smith, Beals Associates, PLLC and Joseph Falzone, Harbor Street Limited Partnership; met with the Board to discuss the application for this subdivision. Although the Board was only reviewing the open space forty-two (42) lot subdivision Mr. Smith reminded the Board of Mr. Falzone’s work with the federal conservation agency to reap some fiscal benefit for each lot he gives up in the alternate twenty-five (25) proposal also submitted for review.

Mr. Falzone stated that he spoke with the road agent and was told the cul-de-sacs would be fine with him as long as they were not longer than Friar Tuck Lane.

Mr. Colby apprised the Board that staff has reviewed the application for the forty-two (42) lot subdivision plans and found them to be complete.

Chair Stockus questioned the submittal of two (2) separate plans for the same parcel of land. He advised Nottingham’s subdivision Rules and Regulations do not make allowances for multiple sets of plans. He stated that Mr. Falzone had indicated in the past he has done this in other communities but to date the Planning Board has seen nothing indicating which community this has been done in and how it was handled. To date the Board has not heard from Town Counsel as he has been unavailable to rule on this. So, at this point, the Board has advertised for the forty-two (42) lot subdivision plan and is prepared to rule on that.

Mr. Grotenhuis asked if this meant the Board will not be reviewing the cul-de-sac plans.

Chair Stock replied the Board is still waiting for Mr. Falzone’s reference to other communities.

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The Crossings Subdivision – Friar Tuck Lane & Oakridge Road Continued

Motion was made by Troy Osgood to accept the application for **Case #P13-02-Sub** – The crossings – 154 acre parcel which fronts both Friar Tuck and Oakridge Road- Map 10, Lot 10, Map 8 Lots 8-21, Map 8 & 10 Lots 9 & 10 – for a proposed open space forty-two (42) lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian M. & Jennifer Spagna, Seth F. & Pearl I. Peters.

Second: John Morin

VOTE: 7 – 0

Chair Stockus opened the Public Hearing and explained to those present the procedure to be followed: the applicant presents the proposal; the Board members ask questions of the applicant; other questions and comments are taken in the following order: abutters in favor, abutters opposed, anyone else who wishes to speak if time permits, and any written comments are read into the record.

Mr. Smith, Beals Associates, PLLC; stated that the through road layout has five (5) wetland crossings. This plan shows one and one half (1 ½) acre lots and has a total of one hundred and fifty-four (154) acres. It has approximately eighty (80) acres of open space which is well above the fifty (50%) required.

Mr. Falzone, applicant, questioned at what time the plans will be going out for third party engineering review and if RCCD will not be reviewing what process will be followed. He wanted to know if the town will be sending this to bid and if the Board will consider the applicant's expenses.

Mr. Colby advised the town has a list of qualified engineers and will choose the engineer. The Board will not be going to bid but the applicant has the right to appeal the Board's choice.

Mr. Grotenhuis stated professional engineering consultants are selected based on qualifications, not price. Should the price vary significantly from previous reviews the town would look at this again.

Mr. Falzone spoke regarding the method of approving the plans. He stated that it was his understanding when he met with the Planning Board at the last hearing this proposal would be treated as a phased project, just like he has done in other towns. He went on to say this is the first he heard that the plans should have been filed differently. He doesn't know if he can do separate applications or if the Board can approve two (2) plans. He thought it would be approved as a three (3) phase plan.

Chair Stokus repeated that State law does not allow for multiple approval or multiple projects on one application. A phased project would show a forty-two (42) proposed lot subdivision with the first phase being on the right of the plan, the second phase being in the middle and the third phase being on the far left. What is in front of the Board now is completely different/

Mr. Falzone repeated he didn't know how the Planning Board approves two (2) plans.

At this time Chair Stockus questioned if members of the Board had any questions.

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The Crossings Subdivision – Oakridge Road - Continued

Mr. Davies stated it is his understanding that what the Board is doing this evening is beginning the discussion to accept the forty-two (42) lots subdivision only and Chair Stockus agreed. Chair Stockus apprised the forty-two lot subdivision must be provided as a contrast for the open space twenty-five (25) lot plan.

Mr. Smith, Beals Assoc., PLLC stated this established the density. The federal program doesn't see it as real unless they have an approved plan showing the density.

Susan Mooney asked the applicant if he sees the time lines meshing with the Federal Government/WRP.

Mr. Smith, Beals Assoc., PLLC; answered in the affirmative, stating the filing will occur within sixty (60) to ninety (90) days of approval.

Mr. Grotenhuis asked if the applicant would consider having the forty-two (42) lot subdivision plan show phasing without lot line changes and then showing where the phasing is.

Mr. Smith replied that if we end at our goal the lots will have to change. He stated two sets of plans were submitted because it makes things easier for the reviewing engineer,

Mr. Osborn suggested the Board handle this as the lots change and the Board agreed.

Chair Stockus asked if there was anyone in the audience who would like to speak in favor and seeing no one he asked if anyone would like to speak against the project.

John Terninko, 62 Case Road, stated he was an abutter to the proposed subdivision. He questioned the mechanism to be used for fire protection and mentioned the fire pond on Oakridge Road and his concern regarding that.

Mr. Colby advised that depending on what the testing shows the pond may be reclaimed or an alternate fire protection method will be installed. He is working with the Fire Chief on this.

Ms. Mooney requested that when Mr. Colby refers to Town Counsel he also ask how the Planning Board gets from where we are to where we have to go regarding this subdivision.

Mr. Colby replied that he would do so.

Mr. Terninko interjected and reminded the Board that if the road goes through it will not satisfy the requirements for WRP even without houses due to wetland crossings. The roads are not part of WRP easements.

Mr. Colby advised the Board to continue this hearing to a date and time reminding the Board that office staff will not be available at the July 10, 2013 meeting.

Vice Chair Osgood suggested the Board schedule the continuance with a potential carryover to the July 24, 2013 meeting.

Motion was made by Eduard Vielto continue the public hearing for **Case #P13-02-SUB** – the Crossings subdivision until July 10, 2013 with a potential carry over to the July 24, 2013 Planning Board meeting.

Second: Troy Osgood

VOTE: 6 – 0 – 1 John Morin abstained

Merry Hill Subdivisions Conditions Update

Mr. Colby advised the Board the six (6) conditions have been met. As estimate was received from RCCD for over site of the conservation area and this was much too high.

Mr. Falzone that RCCD thought the land was being deeded to them. It was Mr. Falzone's impression that the land stays with the homeowner's association and RCCD walks the land once a year. Mr. Falzone has met with the Conservation Commission and the Commission agreed to be the monitors for this parcel. Mr. Falzone will place the first ten (10) year's fees and then the homeowner's association will provide the money needed to monitor the land.

Motion was made by Troy Osgood to approve the changes made in the monitoring of the land to be held in conservation in the Merry Hill subdivision.

Second: Susan Mooney

VOTE: 6 – 0 – 1 John Morin abstained

Rocky Hill Subdivision Escrow Account/Invoice

Motion was made by Eduard Viel to approve invoice #789 in the amount of six hundred one dollar and 60 cents (\$671.60) submitted by Farwell Engineering Services, LLC for services rendered.

Second: Troy Osgood

Mr. Colby interjected and begin discussion regarding the fact that Mr. Falzone has yet to submit the check to staff for this escrow account.

Mr. Grotenhuis questioned if this meant the Board was approving payment of an invoice when there was no money to pay the invoice and was told this was the case.

Mr. Osgood retracted his **second**.

Mr. Viel retracted his **motion**.

Motion was made by Mr. Viel to pay invoice #789 as soon as the funds required were placed in the escrow account.

Second: Troy Osgood

VOTE: 7 – 0

Mr. Falzone requested that he be allowed to place twenty five hundred dollars (\$2500.00) in the escrow account next and the additional funds needed before July 15, 2013.

Mr. Davies asked if the Planning Board had ever allowed escrow money to be placed in incremental payments.

Chair Stockus stated this means the applicant is requesting partial payment on the escrow account.

Ms. Mooney questioned if a scenic road public hearing was necessary for the proposed paving of Ledge Farm Road, and, also that all abutters be notified to allow them to voice whether or not they want this road paved.

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Rocky Hill Subdivision Escrow Account Continues

Mr. Falzone stated that the paving of Ledge Farm Road was in the town's budget for 2015. The town had Ledge Farm Road scheduled for gravel and brush removal this year. Following research Mr. Falzone agreed to pave fifteen hundred (1500) feet in front of his subdivision as this would allow him to receive five thousand dollars (\$5,000.00) more per lot.

Ms. Mooney requested Mr. Colby seek Town Counsel opinion regarding this matter and he agreed to do so.

Discussion continued regarding the escrow account and it was established there had been a miscommunication between the applicant and the town as to who was responsible for the placing of the money needed. Therefore:

Motion was made by made by Eduard Viel to accept Mr. Falzone's request to be allowed to submit funds to the Planning Board office for the purpose of creating an escrow account for payment of engineering inspections rendered by Farwell Engineering Services, LLC. The first payment in the amount of six hundred seventy one dollars and sixty cents (\$671.60) to be submitted no later than Wednesday, June 19, 2013, and the second payment in the amount of ten thousand seventy four dollars and forty cents (\$10,0774.40) to be submitted before July 15, 2013.

Second: Troy Osgood

VOTE: 7 – 0

SRPC Presentation/Discussion – Eduard Viel

May 22, 2013 Minutes

Changes to be made:

Line 34 – Change "7" to ""5"

Line 83 – Insert “three thousand three hundred and thirty five dollars” before “\$3,335.00”

Line 89 – Insert “sixty eight thousand dollars” prior to “\$68,000.00

Line 99 – Change “Marstane” to “Marston”

Line 100 – Change “lean” to “lien”

Line 101 – Change “lean” to “lien”

Line 101 – Insert “twenty five thousand dollars” prior to “\$25,000.00”

Line 108 – Insert “twenty five thousand dollars” prior to “\$25,000.00”

Line 149 – Insert “performance” before “bond”

Line 162 – Insert “is” following “advantage” and delete “is” following “Town”

Line 179 – Change “(\$513,889.20)” to “(\$513,899.20)”

Motion was made by Susan Mooney to accept the minutes of May 22, 2013 as amended.

Second: Gary Anderson

VOTE: 6 – 0 – 1 Dirk Grotenhuis abstained