



Office of  
**THE PLANNING BOARD**  
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RECEIVED  
OCT 16 2017  
TOWN OF TOWNSEND  
TOWN CLERK

Lance J. McNally, Chairman  
Kathy Araujo, Member

Edwin H. Howard, II, Vice Chairman  
Christopher Nocella, Member

Laura E. Shifrin, Clerk  
Jerrilyn T. Bozicas, Associate Member

### **Planning Board Meeting Minutes**

July 24, 2017, at 6:30PM

Townsend Memorial Hall, in Selectmen's Chambers  
272 Main Street, Townsend, MA 01469

#### **1 PRELIMINARIES:**

- 1.1 Call the meeting to order: Lance McNally called the meeting to order at 6:31PM
- 1.2 Roll call: Jerrilyn Bozicas, Kathy Araujo, Laurie Shifrin, Ed Howard, II, and Lance McNally were present. Michele Decoteau, Planning Administrator, took minutes.
- 1.3 Additions or Deletions to Agenda Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting: *Add 3.4.1 Website*
- 1.4 Approval of Minutes from June 5, 2017 Approval of Minutes from June 5, 2017 – E. Howard moved to table the minutes. L. Shifrin seconded. All in Favor (AiF). Minutes provide part of the testimony for decisions and needed more details.

#### **2 APPOINTMENTS:**

- 2.1 **6:40PM – Public Hearing** under Article II, § 175-13, and Zoning Bylaw § 145-39 for an application by Denis Martino and William Martino for an amendment to the 2009 Village at Patriot Common Open Space Subdivision Plan Decision, as amended in 2013. The applicants wish to move the driveway shown for 7 Trophy Ave, Assessor's Map 42, Block 6 Lot 0, from Trophy Ave to Proctor

**Exhibit A.** Application from Douglas C. Deschenes, Deschenes & Farrell, P.C., on behalf of Dennis Martino and William Martino to modify the Open Space Preservation Plan (OSPD) and Definitive Plan "Village at Patriot Common" off Haynes Road dated April 6, 2009 and (Revised 1/10/11) and Amendment to Special Permit Decision The Village at Patriot Common Special Permit for Open Space Preservation Development (OSPD) dated August 19, 2013.

**Exhibit B:** Certified Abutter's List (Legal Notice mailed 6/8/2017)

**Exhibit C:** Checks for \$200 to cover the application fee.

**Exhibit D:** Mandatory Referral Comments.

**Exhibit E.** Sign in Sheet from the Public Hearing

Exhibits provided at the Public Hearing

**Exhibit 1:** Letter dated April 13, 2017, from Thomas W. French, Ph.D., Assistant Director of the Division of Fisheries & Wildlife to Dennis Martino and the Townsend Conservation Commission

**Exhibit 2:** Memo dated July 24, 2017, from Ed. Kukkula to the Planning Board regarding Driveway for Martino Property

**Exhibit 3:** Email dated July 24, 2017, from David Crossman to Doug Deschenes forwarding the email dated May 23, 2017, from Misty-Anne Marold to David Crossman regarding NHESP 06-20224

**Exhibit 4:** Memo dated July 20, 2017, from the Conservation Commission to the Planning Board Re: 7 Trophy Ave

**Exhibit 5:** Letter dated July 24, 2017, from John De Gomes & Barbara A. Gomes (32 Proctor Road) to Lance J. McNally and the Members of the Planning Board. The Gomes are not in favor of changing the entrance of the driveway and cite conservations issues and the considerable objections by abutters.

**Exhibit 6.1 & 6.2:** Two photographs showing marked trees standing in water.

**Exhibit 7.** Notice of Intent Plan of Land, Townsend, MA 7 Trophy Ave Townsend, MA. Dated January 10, 2017 with most recent revision 4, dated 7-18-17 Job Number 2615.

L. McNally opened the hearing at 6:30PM. Board members present: Lance McNally, Ed Howard, Laurie Shifrin, Kathy Araujo, Chris Nocella and Jerrilyn Bozicas. Mandatory Referral comments were received, read into the record, and given to the applicant. Legal Notice, posted in the Nashoba Valley Voice June 16&23, was read into the record by L. McNally. Public Notice of the hearing was posted by the Town Clerk on June 8, 2017.

Doug Deschenes, representing William and Dennis Martino, who were also present, gave an overview of the proposed amendment. Attorney Deschenes provided Exhibits 1-4 and 7 above to the Planning Board. The property is a 58 acre Lot 6 from the Village at Patriot Common Subdivision, abuts hundreds of acres of land owned by Fisheries and Wildlife as conservation land. This land is under conservation restriction. The Martino lot has a significant amount of frontage on Proctor Road.

History from D. Deschenes: In the past, a double lane entrance road off of Proctor road had been proposed to service 26 lots in a larger subdivision. For a number of reasons, this road was not seen as the best way of doing things. The subdivision was eventually cut down to the seven lot subdivision we see today. The source of the original restriction was that this was originally approved under subdivision control law and a special permit. There is in fact nothing in either that required the driveway be constructed as shown in the plans. It is not unusual to see no restriction of the location of the driveway in a special permit. Normally they come off of the frontage unless there is some reason to seek relief such as a common driveway. But in this case, as outlined in the application letter, there is nothing that require the driveway to be located as in the plans. The lot lines, the conservation restricted land are dictated under the permit. But in fact, there is nothing within the permit that limits or restricts how these lots are accessed. As you will recall, I didn't feel that we needed a permit to put a driveway in an existing conforming subdivision lot that has in 275 feet of frontage on Proctor Road and no legal restriction in any of the decisions.

The Martinos would like to construct, rather than building a bridge and a significant amount of road way to reach their home, what they'd like to do is put a single driveway is a single driveway off of Proctor Road. Putting the driveway off of Proctor Road will drastically reduce the environmental impacts. D. Deschenes provided Exhibits 1-4 and 7 in support of this point. He summarized each of the letters.

Exhibits 5, 6.1 and 6.2 were provided by abutters during the meeting.

C. Nocella said that after reading through the Planning Board minutes from the past, the Planning Board never mentioned the restriction off of Proctor Road. The reason why the bridge was put in was access off Trophy Ave. That was from the Conservation Commission.

D. Deschenes responded that the original plan was for a 27 lot subdivision with 50 foot right of way way and 24 foot road servicing them. There were conservation considerations because of the disturbances. That was the subject of the conservation restriction. The original plan had a large road coming off of Proctor Road and at that time, the bridge and driveway was the better option. We have now come 180 degrees – that the driveway off of Proctor road will have significantly less impact than the bridge off of Trophy. So this now a much better situation.

E. Howard asked about in Exhibit 1 – they are discussing endangered species, are there additional wildlife considerations beyond these turtles? Were the turtles, the only reason they denied the permit? What, if any, additional wildlife considerations are there and how does this impact them?

D. Deschenes responded that the ConCom is responsible for seven interests under the Wetlands Protection Act. The ConCom reviewed all these issues and that is in the memo they provided. They found that the impacts on all of these were reduced with the driveway off Proctor. The Fisheries and Wildlife focus on endangered species and we have Blandings Turtles out here. They did conclude as currently proposed, it met their standards and they could approve it. The email goes a bit further suggesting this is a better option.

Veronica Kell asked questions to clarify that the access of Fish and Game to the property will not be impacted by the lack of a bridge if that happens. D. Deschenes confirmed that the accesses easement is still in place.

L. McNally asked about the driveway width and if Ed Kukkula, Highway Superintendent, had reviewed the plans. Some concerns were expressed about the width and length of the driveway. It is important that the Fire Chief comment in writing specifically on the width and safety of the driveway. Since there was a turnaround in the previously approved plan. This is for the safety of the land owner. K. Araujo expressed that the reason for this requirement is for the fire department ladder truck.

K. Araujo asked if the Fire Chief had returned his mandatory referral and had been given the plan. M. Decoteau clarified he was sent the entire application including a plan and his response

was: **Fire Chief**, To be consistent with current house numbering system for emergency response the residents should have a Proctor road address numbered appropriately based on the driveway location. Address must be clearly marked on Proctor Road. The driveway shall be built to support, and be wide enough for emergency vehicles to access the residence.

L. Shifrin asked if all the departments did receive the plan for comment. M. Decoteau clarified, that yes, they were given the 9x12 size plan as well as the application and supporting materials provided by the applicant.

K. Araujo asked about the dimensions of the driveway and specifically, the length of the driveway. D. Deschenes responded that it was about 500 feet and is significantly less than if we came off of the end of Trophy.

K. Araujo followed up with questions about the currently approved as part of the subdivision and asking if has a turnaround area. D. Martino responded that it did have a big turnaround area for commercial driveway.

K. Araujo asked if the Chief reviews the width and length since there was turnaround in the approved driveway. I would like his review.

C. Nocella noted that the driveway bylaw is §145-24. And that if it is over 500 feet a turnaround is required. L. McNally read from the bylaw §145-24 C(4): Driveway grades and locations shall be constructed and maintained so as to provide safe access for emergency vehicles. Driveways exceeding 500 feet in length shall have one or more emergency vehicle turnouts and a terminus turnaround as specified by the Building Inspector and the Highway Superintendent. D. Deschenes clarified there was no actual turnaround in the current approved driveway. The turnaround is at the end of the cul de sac.

There was discussion of making a motion to sending a memo to the Fire Chief. D. Deschenes said they would meet with the Fire Chief to find an acceptable driveway plan. He apologized for making the mistake about the width of the driveway and explained they were trying to reduce all the impacts to the wetlands. And he guesses the chief's response didn't point this out. We will go back to him to see exactly what he wants.

D. Deschenes: The original plan in actuality showed the bridge but no driveway.

C. Nocella asked questions about drainage of Stormwater on to the street. D. Deschenes responded that this was reviewed as part of the Conservation review. C. Nocella clarified that ConCom's jurisdiction is ground and surface water. Planning Board's jurisdiction is Stormwater.

Driveway bylaw is §145-24. Concern about the current plan are three fold:

1. Width of the driveway
2. Length of the driveway and turnaround requirement for emergency vehicles
3. Stormwater management off the driveway on to the road.

D. Deschenes said he would submit a full set of plans to the Chief tomorrow and ask for a meeting to go over it and see what he wants to have changed. K. Araujo wanted to assure the applicant that these concerns were for their safety and that the Board the Chief's response in writing.

Conrad Baranowski (13 Proctor Road) asked a question about the driveway in the profile and the drainage. D. Martino and D. Deschenes explained that the drainage would be on the left hand side.

L. McNally noted the retaining wall was 180 foot long and expressed concern about the public safety with a retaining wall that long. D. Deschenes responded that they do not own the entire hill and, in order to protect the neighbor's viewshed, it is our intention to cut in to the hill and come flat across. And on the left hand side, where the wetland resource areas are, we propose to grade that side. The top of the hill is at 298 and the driveway is at 286. The retaining wall holds the hill back and keeps it so that the neighbor here can't see the driveway. And on the other side, there was going to be a retaining wall as well, but the Conservation Commission didn't want a retaining wall there. The proposal is to just grade that side. There is a trench on that side that will pick up the Stormwater from the driveway. It is called an infiltration trench.

C. Nocella expressed that the driveway will still need to be 12 feet wide to meet the bylaw. D. Deschenes stated that they will have to put the additional two feet on the right hand side. They wouldn't want us to put it on the left hand side. We will have to have a discussion with the fire chief to see if the shoulder will be acceptable.

C. Nocella asked about drainage ditches on Proctor Road. D. Martino said, there is no drainage ditch until you get to the bottom. D. Deschenes explained that there is Stormwater management with 12 inch CMPs (catch basin) and culverts next to the roadway. This takes the Stormwater under the road. There is existing controls right at the corner. C. Nocella asked if there was a drainage ditch across where the driveway was going to be. A driveway is not supposed to send water to the street. D. Deschenes assured the Board that the driveway was designed to send water to the catch basin and not into the street. The Highway Superintendent has looked at it numerous time and has approved it.

Julie Ward, the abutter who owns the other part of the hill at the entrance to the proposed driveway, asked about what is going to happen to her side of the hill. In the past, engineers proposed many different solutions to protecting her side of the hill, but none were accepted. She was worried about surveying company, the flags showing the edges of wetlands around trees that were standing in water. She wishes that they would use another engineering firm. What I am afraid of is that they will cut half way in to the hill and it will collapse. She also brought up drainage issues – in the past the engineer had assured the residents that building the three houses on Proctor wouldn't affect drainage, but that caused the road to need be repaved due to flooding and another abutter had his home flooded.

L. McNally suggested a site visit for the Planning Board so we have a better idea of where the driveway will be. Please work with Michele Decoteau to determine a date. K. Araujo explained that on a site walk, the Planning Board wouldn't be discussing the project.

K. Araujo asked that the Board receive a written communication from the engineer with the current versus proposed of length, width, and grade of the two driveways, the current and proposed once it meets the bylaw. And a memo from Ed Kukkula with a clarification of the cul de sac issue and how this driveway complies with the driveway requirements. We sent the engineered plans out during the subdivision approval and I want to know why this was approved as part of this Open Space subdivision. And his comments on the driveway specs regarding the driveway and see how that complies with the bylaw. In addition, you looked at the drainage comparing this driveway with the approved driveway. Is there a drainage report or is it notes on the plan?

D. Deschenes responded that he was speaking from notes on the plan. I am talking about the Stormwater management requirements in the letter, the TSS computation summary the original Trophy Ave plan is at 93% removal and the revised Proctor Road plan is at 80% and both meet the required minimum 80% removal. Recharge is adequate for both alternatives as put forth on the plans. Those were comments from the Conservation Commission.

K. Araujo asked him if he know if the Conservation Commission voted on the findings, mandatory referral or the permit. K. Araujo wanted to make sure that the Police Chief received a mandatory referral form. M. Decoteau replied that the original was in the folder and that he had no comment.

C. Nocella ask for more information on Stormwater management. He expressed that the Planning Board was not qualified to interpret the data provided by the ConCom. The Bylaw says that the drainage cannot run off on the road. The applicant and his team responded that there was a catch basin and the details on the plan.

Mandatory Referral comments read by L. McNally:

**Zoning Board of Appeals** -No Comment; **Police Chief** - No Comment; **Fire Chief**  
To be consistent with current house numbering system for emergency response the residents should have a Proctor road address numbered appropriately based on the driveway location. Address must be clearly marked on Proctor Road. The driveway shall be built to support, and be wide enough for emergency vehicles to access the residence; **Conservation Commission**  
They have filed NOI. We are reviewing alternative access. We will report our findings to the planning board after the Alternatives analysis is completed; **Highway**-No Comment; **Board of Selectmen** - No Comment; **Building Inspector** - I don't see any issues with this. Looks like less impact to the wetlands and bordering vegetation. L. McNally read the memo from the Conservation Commission Exhibit 4. Abutters: L. McNally read the letter to the Planning Board from the Gomes – Exhibit 5.

A question arose about the intended use of the property. The currently approved plan is for a commercial horse farm. L. McNally asked if that was the intention of the current owner, to

operate a commercial horse farm. D. Martino responded that no, they did not intend to have a horse farm, just a single family home for his son.

Abutter Comments:

Julie Ward (26 Proctor Road): The Planning Board when they approved the 7 lot subdivision assured the abutters that there would be no access from Proctor Road. The Planning Board went over the plans meticulously for years and that is what the final decision included. The entrance was a bit part of it. There were issues with the engineering. Depending on who the plan was before, the road – it moved slightly each meeting. That happened all the time and there is documentation. The 27 house was denied and the 7 houses was approved. The owner marketed as an equestrian farm. It is a beautiful piece of property and the approved plan had restrictions on this lot so it would be used as a horse farm.

[She asked Mr. Martino directly if he knew of the restrictions when he purchased it. He responded that he did but it was for a commercial horse farm, not a single family home. Then she asks if he saw that it said no access off of Proctor Road. He responded that he did not.]

She has three concerns 1) that the retaining wall not exceed 10 feet tall, 2) that there a guarantee that is no erosion, and 3) and tree removal. Her final concern is how they accessed the property to perc the land.

J. Bozicas asked about the distance from the property line to the retaining wall. D. Martino said it was 8-10 feet away from the line.

D. Deschenes asked for clarification about the language “deed restriction” and if that was referring to the language in the decisions.

E. Howard said that there was an attachment filed with the deed and while it may not have been on the deed, it is on file in conjunction the registry of deeds. So while it isn’t filed on the deed, the deed restriction was filed with the deed, presumably contemporaneously.

Conrad Baranowski (13 Proctor Road) said, The only thing that concerns me is the elevation of the driveway. The run off from the driveway will overrun the brook. I would like to see the elevation of the driveway on the plans – the elevation profile.

L. Shifrin asked for clarification that the alternatives analysis was between the currently proposed driveway that doesn’t meet bylaw standards and the approved driveway off of Trophy Ave.

D. Deschenes said that was correct. And assured the Board that if any changes are needed, then a new alternatives analysis will have to be completed. He expected that even if they have to expand the paved portion of the driveway, this will only reduce the difference between the alternatives, not turn it in favor of Trophy.

Veronica Kell asked as a past member of the Conservation Commission, she has been on the site walk for the property. It should be noted that the comparison with the current driveway is a horse

farm with access to the paddocks and barns. The letter from Tom French requests verification of the location of Pasture A and B they say what they are saying but they want to know that the two pastures are no longer included in the analyses. There were huge swales to accommodate. If it is now a single family home they should compare it to a single family home driveway off of Trophy. The table doesn't take into account stream shading. The alternatives analysis doesn't take impacts to the cold water fisheries. The table also doesn't take into account impacts to other wild life. If not, why not. In addition she expressed concerns about the height and integrity of the retaining wall and queried as to an escrow account for abutters to cover damage to their property from this driveway. D. Martino said that going in through Trophy is going to cause a lot more disturbance to the stream. On Proctor Road, the driveway is only near the stream for a little bit. D. Deschenes responded and he brought up that the Conservation Commission's analysis talks directly to the number of trees.

L. McNally shared that what the Planning Board wanted from the Conservation Commission was what their conclusions after they have reviewed the analysis. We just don't understand all this information. We want to hear their conclusion. Their opinion not decision.

C. Nocella stated that what the frogs are doing is outside our jurisdiction. The Conservation Commission is concerned with the frogs and what they are doing. In this case, we just need them to tell us if they like this or not. We just want their *opinion*.

D. Deschenes: you interest here is conformance with the bylaw, safety and Stormwater. The ConCom gave you the information but stopped short of giving you their opinion.

Draft a memo to the CC from the PB: CC we appreciate your time in preparing the memo and alternatives analysis, but, during our meeting it was brought to our attention by abutters that the analysis did not take into account stream shading, comparison of impacts from a single family driveway off of Trophy Ave, and other forms of wildlife.

#### Planning Board Action Items:

1. D. Deschenes will provide a revised plan that addresses §145-24 of our bylaws, in particular turn arounds, width, and that no water that goes from the driveway to the road.
2. Once we have the revised plan, ask the Fire Chief and Highway Superintendent to review and ask for a written response [D. Deschenes agreed to do this and provide a written response to the PB]
3. Ask department heads to review the revised plan
4. Ask Ed Kukkula, Highway Superintendent, what is different about this cul de sac in other subdivisions that snow removal is particularly difficult [D. Deschenes agreed to do this and provide a written response to the PB]
5. Send memo to Con Com [L. McNally will draft this]
6. Request a full drainage report on the plans –D. Deschenes said he'd send us whatever they had.
7. Request a memo to Anne Gagnon that Fish and Game still has access without the bridge [D. Deschenes agreed to do this and provide a written response to the PB]



L. McNally suggested continuing the hearing until the next meeting August 14, 2017.  
D. Deschenes suggested continuing to August 28 would be better to give them time to prepare all the documents.  
Site walk will be scheduled.

K. Araujo moved to continue the Hearing to August 28, 2017 at 6:50PM. LS seconded. AiF.

**7:10PM – Appointment** – Locke Brook Run OSMD permit extension request  
Scott Blackburn from 54-60 Realty Trust II, requesting an extension of time to begin construction on a 20-unit Open Space Multi-Family Development.

The Board finds that the applicant has met a condition of the permit to convey 34 acres of open space to the Town of Townsend, and is complying with a condition to donate one unit to Habitat for Humanity, which will be added to the Town’s “Affordable Housing” Inventory. The developer acknowledges that this condition runs with the permit, and has continued to maintain contact and provide updates to the Habitat organization.

L. Shifrin moved that due to the a sluggish economy over the past several years, there is sufficient good cause to grant an extension of two years to begin substantial construction of the Open Space Multi-Family Development, pursuant to Zoning Bylaws §145-47 H. and §145-65 G. C. Nocella seconded. All in Favor.

### **3 WORKSESSION:**

#### 3.1 Mandatory Referrals

- 3.1.1 **20 Laurel Woods Drive – Accessory Apartment Permit Renewal**
- 3.1.2 **52 Blood Drive - Accessory Apartment Permit Renewal**
- 3.1.3 **139 Highland Street - Accessory Apartment Permit Renewal**
- 3.1.4 **283 Townsend Hill Road - Accessory Apartment Permit Renewal**
- 3.1.5 **199 Wallace Hill Road - Accessory Apartment Permit Renewal**

The Planning Board was in support of requesting people stay in compliance with their permits, but had no comment on the specific referrals.

#### 3.2 Personnel policy update –

The Planning Board discussed the potential change in the Vacation Policy and do not support the change. The Policy as it is worded could be too subjective. The Board would prefer a policy where every employee is treated the same with a blanket policy allowing all personnel to carry over a percentage of their vacation. M. Decoteau will draft a memo to the BoS from the PB.

#### 3.3 Master Plan – proposal to Mullen Center – L. McNally will contact them directly

#### 3.4 Accessory Apartment Bylaw update – Finish list and let the Zoning Enforcement Officer continue

- 3.4.1 Website – Ask IT if there is a way for the Planning Board to share files other than Dropbox or publically.  
Only want Agenda, Minutes and Calendar for meetings.

K. Araujo left at 9:25PM.

3.5 Administrator's Report - Noted

**4 CORRESPONDENCE:**

4.1 Notices from Townsend / Other Towns - Noted

**5 ADJOURNMENT** – EH made a motion to adjourn at 9:40PM. C. Nocella seconded. AiF.

~Next meeting 8.14.17

Respectfully submitted from electronic recording,  
Michele Decoteau, Planning Board Administrator

Exhibits on file at the Land Use Office

1. **Exhibit 1:** Letter dated April 13, 2017, from Thomas W. French, Ph.D., Assistant Director of the Division of Fisheries & Wildlife to Dennis Martino and the Townsend Conservation Commission
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