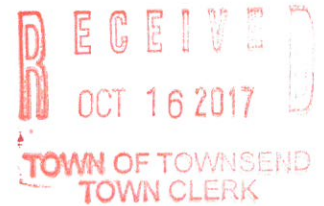




Office of
THE PLANNING BOARD
272 Main Street
Townsend, Massachusetts 01469
978-597-1700 x 1722
MDecoteau@townsend.ma.us



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
August 28, 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: Ed Howard called the meeting to order at 6:32PM
- 1.2 Roll call: Ed Howard, Laura Shifrin, Kathy Araujo, Chris Nocella, Jerrilyn Bozicas were in attendance. Lance McNally was absent.
- 1.3 Additions or Deletions to Agenda Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting: None.
- 1.4 Approval of Minutes from July 24, 2017, and August 14, 2017: Tabled.

2 APPOINTMENTS:

- 2.1 **6:40PM – Public Hearing** –MGL Ch. 40, §15C – Scenic Roads, MGL, Ch. 87 – Shade Trees, and Planning Board Rules and Regulations, Article IV, §175: 31-34 – Hearings Under the Scenic Road Act, the Planning Board and Tree Warden. Applicant, Barker Hill, LLC, proposes to move a rock wall and three trees at 83 Barker Hill Road Assessor's Map 20-Block3-Lot6.

Exhibit A: Scenic Road Act Permit Application, stamped by the Town Clerk on July 17, 2017 and the Planning Board on July 17, 2017.

Exhibit B: Certified Abutter's List – Legal Ad mailed on 7/26/17 – neighboring towns 7/26/17

Exhibit C: Checks for \$150 to cover the application fee.

Exhibit D: Mandatory Referral Comments

Exhibit E: Map showing lot and location of proposed driveway and current stone wall. Map is Notice of Intent 83 Barker Hill LLC Barker Hill Road Townsend Tax Map 20 Lot 3.6. Dated June 7, 2017 revised July 12, 2017. Stamped by Douglas J. Smith, RS #1155.

Exhibit F: The trees were marked seven days in advance of the Hearing

Exhibit G: Memo from Don Massucco, Townsend Tree Warden stating that he has no objections to their removal.

Exhibit 1: Sign in Sheet

Exhibit 2: Driveway Permit #9-17DP

E. Howard opened the hearing at 6:42PM. Board members present: 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 July 28 & August 4, 2017, was read into the record by L. McNally. Public Notice of the hearing was posted by the Town Clerk on June 8, 2017.

Exhibits provided at the Public Hearing

Exhibit 1: Sign in Sheet

Exhibit 2: Driveway Permit #9-17DP

The Applicant, Richard Freitas, presented the plan for a single family home on the 2.1 acre lot. The Con Com issued an Order of Conditions and granted a waiver of the 35foot no-disturb for access only. The Building Inspector and Highway Superintendent have approved the location of the driveway. It will be 225 feet long. This is the only location to access the lot, the rest of the entrance is through wetlands.

E. Howard asked if there was stonewall blocking the entire entrance. R. Freitas said yes and that is all wetlands. He pointed out that most of the entrance of the property has wetlands. E. Howard asked if there was frontage on any other road. R. Freitas said no.

R. Freitas presented the Driveway Permit #9-17DP [Exhibit 2]. C. Nocella consulted the bylaws. C. Nocella asked about the pitch of the driveway and its proximity to the neighbor's property line.

R. Freitas said that the driveway pitch was toward the lot. M. Decoteau, concurred that the Building Inspector said there is no setback for a driveway from the side property lines.

E. Howard asked what they were doing with the removed stones. R. Freitas proposes to use the stones that are removed the line the driveway.

Mandatory Referrals. All Boards either did not respond or responded with no comment other than the Conservation Commission who said The Conservation Commission has issued an Order of Conditions approving this project. The Board reviewed a memo from Don Massucco, Townsend Tree Warden stating that he has no objections to their removal.

K. Araujo moved to close the Public Hearing at 7:04PM. L. Shifrin seconded. AiF.

K. Araujo moved to grant the permit subject to the driveway being built as per the plans submitted, the stones moved to the driveway edges to maintain esthetics, only the three marked trees removed, and subject to §145-24 as well as the following condition. C. Nocella seconded.

The Board put the following condition on the permit:

The Applicant shall provide a Before and After pictures to the Board to show the new location of the stones from the stonewall. The Before photo is attached. The After photos shall be submitted to the Planning Board within 30 days following completion of the project.

Decision

Roll call vote:

Kathy Araujo	Yes
Jerrilyn Bozicas	Yes
Chris Nocella	Yes
Laura Shifrin	Yes
Ed Howard, II	Yes.

Motion carries and the permit is hereby granted.

2.2 6:50PM – continuation Public Hearing –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

Exhibits provided prior to the meeting

Exhibit 8 – Email from Julie Ward [26 Proctor Rd.] dated 08.14.17, stating her concerns about the entrance and the destruction of the hill

Exhibit 9 – Email from Julie Ward [26 Proctor Rd.] dated 08.14.17, sharing history of the project, concern about the retaining wall, and concerns about storm water. She urges the Planning Board not to approve the change.

Exhibit 10 – Email from Ed Kukkula, Highway Superintendent, dated 08.08.17, stating: We would then have to send a loader there to try to find a way to distribute around so we don't block driveways or pile it in yards. We that unfortunately for some cul-de-sacs in Townsend.

Exhibit 11 – Letter from Crag A. MacDonnell, Chief of Wildlife Lands Division of Fisheries and Wildlife dated 08.21.07, stating that the access easement they have through this property does not require a bridge.

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Exhibit 13 – 08.23.17 response from Rick Bailey, Police Chief stating: There does not appear to be any public safety concerns.

Exhibit 14 – 08.21.17 response from Richard Hanks, Building Inspector, stating: This plan as revised on 8-16-17 meets the requirements under section 145-24, Driveways & Entrances. The proposed retaining walls will require a building permit and engineered plans.

Exhibit 15 – Email from Julie Ward [26 Proctor Rd.] dated 08.27.17, stating her concerns about the cutting of the hill that is shared between her property and 7 Trophy Ave. She would like the exact distance of the retaining wall from her property line to be clarified.

Exhibits from the meeting

Exhibit 16 – Memo from Veronica Kell

Exhibit 17 – Drainage Narrative for 7 Trophy Ave dated August 22, 2017, prepared by Meisner Brem Corporation and prepared by Dennis Martino.

Exhibit 18 - Appendix A – 2017 Hydrocad Model Printouts

Exhibit 19 – THE VILLAGE AT PATRIOT COMMON – ASSESSORS MAP 42 PARCELS 4,5,6,8,& 13 – ASSESSORS MAP 43 PARCELS 14,15,16, &17, TOWNSEND, MA 01469 DRAINAGE REPORT February 9, 2009 PROJECT NUMBER: 1498.3

Exhibit C: Sign in Sheet

In addition to the owners, Dennis and William Martino, their attorney, Doug Duchenes, and engineer, Jeff Brem attended.

E. Howard announced the continuation of the Public Hearing and announced there was a sign in sheet circulating. The Board Members introduced themselves.

Douglas Duchene introduced Jeff Brem and Denis and William Martino. He mentioned that they have now provided the Board with new revised plans and drainage calculations [Exhibits 7, 17, &18]. Shared the memos from the Building Inspector [Exhibit14], the Fire Chief [Exhibit 12], and the Police Chief [Exhibit 13]. In addition, he shared the letter from Division of Fisheries and Wildlife [Exhibit 11]. He reviewed the memo from Ed Kukkula about the snow removal [Exhibit 2] with follow up from him in Exhibit 10, stating that all circles are hard to plow without a place to put the snow. The location of the driveway that is off of Trophy Ave is where snow is piled now.

J. Brem reviewed the plans and the driveway detail [Exhibit 7]. The only changes made were that it is 20 feet for the shoulder. The driveway was always this way, but language was added to clarified how this meets the bylaw. In addition, if a driveway is over 500 feet, you need a little turn out so one car can pass.

As we said in the site walk, the first 200 feet are paved to reduce erosion. Once it flattens out, the driveway turns to gravel. Also there is a turnaround for emergency vehicles at the top – this y-shaped turnaround is approved by the National Fire Protection Association. Those are the only changes.

J. Brem reviewed the retaining wall. C. Nocella asked about the size of tie backs. J. Brem discussed options and his experiences with various heights of walls. A ten foot wall might require eight foot tie backs, but that will depend on what type of wall they design. The Building Inspector is requiring it to be designed.

J. Brem turned to Stormwater and shared that he sent three documents, a big thick report [Exhibit 18], which he simplified into a shorter narrative [Exhibit 17], and the original drainage report [Exhibit 19]. There are four standards out of ten that are most important on a project like this. The first one is Standard #2, Peak Flow Rates. If you look at the comparison table, there is essentially no change. The third standard is Groundwater Recharge. The idea that you take the annual rainfall, including snow, in this region is between 40 and 44 inches. You take the recharge rate of 40 of 42 storms and get that into the ground. There will be a couple of storms that don't make it in the ground but most will. Compare to impervious area. You take the volume of water over the impervious area and determine if you have the capacity to recharge this water in the ground. The Proctor Road driveway will meet this standard. Standard #4 is Water Quality – you have to treat the stormwater before it goes into the wetland and we are doing that with an infiltration trench along the driveway.

J. Brem discussed the Conservation Commission's perspective on the project. He shared that his feel for the tone for the meetings he has attended to is that they are ready to approve the Proctor Road driveway entrance pending the Planning Board's approval.

L. Shifrin asked about the Fire Chief's comments. She read the memo from him and mentioned that the spring time is often wet. She highlighted the concerns about maintenance. E. Howard shared that he has driveway that is long and many long driveways in Townsend are unpaved. We should not hold the Martino's to a separate set of standards.

D. Duchenes read the memo from the Fire Chief, and emphasized that the onus of maintenance is on the owner and once the address is changed, the driveway will meet the standards. You can condition the permit to be that the owner will maintained to allow for access in all seasons. C. Nocella said that driveway maintenance standards are personal. D. Duchenes said that it can be made a condition such as to keep it plowed and take care of the potholes.

The Board expressed concerns about the safety of the length and width of the driveway. Keep safety in mind.

Is there enough of a material change in condition to where we would feel comfortable with an approval? We need to be comfortable with changing a past decision.

There was a discussion about deed restrictions versus a decision with conditions that are approved.

K. Araujo reviewed information about an open space subdivision. What we need to focus on is what was approved. What is being proposed now is changing the access point. There were other issues coming off of Proctor Road including the brook. The tributaries of a river fall under the River Protection Act. None of us are taking the decision lightly. None of us are trying to put road blocks up either. We need to focus on the approved access, the change in access that has a substantial retaining wall that will require trees be taken down and part of a hill. We have to do our due diligence.

D. Duchenes responded that he was at those hearings and decision reflected a desire not to use the Proctor Road entrance to keep out a road that would serve many houses. However we are not asking for a road. The ConCom, Natural Heritage, and Fisheries and Wildlife have all concluded that putting the driveway off of Proctor Road is more protective of the resource area, the brook. We are better off putting of the driveway off Proctor. And as far as the open space, we are no restricting it, we aren't changing it, and we are not putting the driveway in that space. The Brook is more protected.

E. Howard describe the area near an abutter's house with trees and cut out of an old sand pit. The tree growth starts further up. IN terms of the impact, there will be a retaining wall initially a few feet from the neighbor's property. C. Nocella also expressed concern about erosion especially with respect to the sand hill. Sand is lively. J. Brem discussed how this could be done from an engineering stand point. You can build the wall contemporaneously with the excavation.

D. Ducharme shared that the Building Inspector requires the wall to be engineered separately. And if we build the wall according to the plans, then if it fall then there will be a civil fault.

Veronica Kell [Exhibit 16]

In considering an amendment to the Village at Patriot Common Open Space Preservation Development permit for the driveway for 7 Trophy Ave entering from a town road other than a road within the subdivision, I encourage the Planning Board to consider:

1. The planning of all former and future Open Space Preservation Developments. Currently, the OSPD's That have been permitted in town consist of a road into the development and driveways, or additional roadways, from that main entrance. Moving the access to Lot 7 in the Village of Patriot Common to come from a roadway other than that of the OSPD is counter to the planning that has traditionally been done in Townsend for these developments.
2. The hiring of an independent Engineering firm to evaluate the abutter's concerns with the Topography and integrity of the shared sand hill.
3. The hiring of an independent engineering firm to evaluate the data submitted to the Planning Board by the Conservation Commission. Does the submitted table compare a single---family driveway from the existing access via Trophy Ave to a single---family driveway from Proctor Rd? Do both driveways have the same dimensions, i.e., width of 12 feet for the first 15 feet followed by 10 feet width to the house, etc.? Or is the entire existing horse farm plan for the Trophy Ave access being compared to a single---family driveway from Proctor Rd? (The applicant has stated that he would like to keep horses in the future, and would apply at that time for any permits. Should those future Driveway calculations be included in the current comparison?)
4. The hiring of an independent engineering firm to determine if the storm--- water requirements for the subdivision are met with the proposed driveway configuration.
5. the fact that the Highway Superintendent did not at any time object to the cul---de---sac design for Trophy Ave during the multi---year permitting process for the Village at Patriot Common and did not make any contrary statements at Town Meeting on May 3, 2016, when Trophy Ave was accepted as a town way. See Townsend Town Meeting May 3, 2016 –YouTube, 3:08 (Article 30 Alyssa Drive) and 3:12 (Article 31 Trophy Ave).
6. The process by which This was brought forward. The Townsend Wetlands Bylaw requires that all permits be applied for concurrently. On Oct 26, 2016, the applicant(s) met outside of a public meeting with a quorum of the Conservation Commission prior to the regular Conservation Commission for "advice" on moving access to this lot to Proctor Rd even though deeded access to the lot was defined in the subdivision plan. On March 20, 2017, the applicant filed a Notice of Intent with the Conservation Commission changing the Access to 7 Trophy Ave from Trophy Ave, the

subdivision roadway, to Proctor Rd. The Conservation Commission site walk on this property occurred on April 15, 2017. Filing with the Planning Board did not occur until May 30, 2017, and may not have occurred at All if this was not brought to the Planning Board's attention (see attached e--mail stream from March 31,2017). The first Planning Board hearing was on July 24, 2016. On August 16, 2017, the applicant requested the Conservation Commission issue an Order of Conditions as "things were not going well" with the Planning Board (public record). As a resident of Townsend, I expect and believe that our elected and appointed officials are adhering to the Town Bylaws and that decisions of prior boards are honored and upheld. Actions otherwise by boards constitutes a breach of public trust.

Prior to granting a special permit for a Proctor road driveway I would recommend an Engineering Peer review be performed addressing the following concerns specifically identified by the Abutter's at the July 24, 2017 public hearing ("the public hearing").

E. Howard shared some thoughts from L. McNally. Prior to granting a special permit for a Proctor road driveway I would recommend an Engineering Peer review be performed addressing the following concerns specifically identified by the Abutter's at the July 24, 2017 public hearing ("the public hearing").

1. Drainage - Determination that the construction of the Proctor road driveway, retaining wall and storm water plan will not result in water issues on Abutter properties the stream and runoff on Proctor road,
2. Erosion - Determination that the construction of the Proctor road driveway, retaining wall and storm water plan will not result in Erosion or tree damage to Abutters' properties.
3. Retaining Wall - Review the plans for the retaining wall for the Proctor road driveway for conformance to all applicable Federal, State and local regulations.

I believe that a peer review is justified based on the fact the original submitted plan failed to conform with local regulations (i.e., 145-24 C. (5.)) and comments made at the public hearing.

That said, to be fair to the Martino's, I believe a peer review should not be undertaken until all foreseen issues that would result in the denial of their special permit are resolved.

This is a material change and deserves consideration and the abutter's concerns are legitimate. We should get an independent Peer Review Engineer to comment on the Retaining Wall, Drainage, and Erosion.

Consensus from the Board and D. Duchene would be to ask Jeff Rider, formerly of Howe Engineering not on his own, to provide the Peer Review Engineering since he did that before and this would speed up the process. He is not a structural engineer, he can opine about the erosion of the wall. The structural engineering of the wall has not been complete but if it is built to code, what is the possibility of erosion behind it?

D. Duchenes agreed that this was not an unreasonable request. He just wanted to be clear, don't do a peer review until and unless we have completed all other non-engineering issue.

The Board is most interested in three things – drainage, erosion –particularly behind the wall over time, and the wall itself. The wall has yet to be designed, but the owners are planning to go with something like the wall surrounding the tennis courts at Lawrence Academy.

There was discussion on the nature of the lot. It will always be part of a subdivision and subject to any and all decisions affecting the subdivision.

Can a subdivision have a driveway access that is not from a road in the subdivision?

K. Araujo made a motion to go to Town Council. Questions for Town Council

1. Is this a minor modification (driveway relocation request)?
2. What are the ramifications of changing a decision of a previous board?
3. This new plan has an 180 foot retaining wall that varies in height from 3-10feet high. Can you speak to the question of liability relative to the wall and any wording or agreement which would be enforceable, should the wall fail?

E. Howard seconded. AIF.

E. Howard made a motion to go to peer review engineer, Jeff Rider.

1. Drainage - Determination that the construction of the Proctor road driveway, retaining wall and storm water plan will not result in water issues on Abutter properties the stream and runoff on Proctor road,
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K. Araujo seconded. AIF.

E. Howard made a motion to continue the hearing until October 2, 2017, at 6:40PM. C. Nocella seconded. AIF.

3 WORKSESSION:

3.1 Master Plan:

The Board discussed the price of consultants and brainstormed some ideas about where grant funding could be found. Also discussed a timeline and that we need help from outside consultants. M. Decoteau provided information about how much other towns spent on a Master Plan. Implementation is critically important.

We should do a FB ad and a website. What is the hosting fees for a website and budget.

Remaining discussion was tabled.

3.2 Mandatory Referrals: None

3.3 Administrator's Report: None

4 CORRESPONDENCE:

4.1 Notices from Townsend / Other Towns

L. Shifrin read the correspondence.

5 ADJOURNMENT – C. Nocella moved to close the meeting. J. Bozicas seconded. AIF.
~Next meeting September 11, 2017~

Exhibits on file at the Land Use Office

2.1 83 Barker Hill Road

Exhibit A: Scenic Road Act Permit Application, stamped by the Town Clerk on July 17, 2017 and the Planning Board on July 17, 2017.

Exhibit B: Certified Abutter's List – Legal Ad mailed on 7/26/17 – neighboring towns 7/26/17

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2.2 7 Trophy Ave

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