



Office of  
THE PLANNING BOARD  
272 Main Street  
Townsend, Massachusetts 01469  
978-597-1722

RECEIVED  
JUN 14 2007  
TOWN OF TOWNSEND  
TOWN CLERK

Jeffrey R. Peduzzi, Chairman

Nicholas E. Thalheimer, Vice-Chairman

Louis C. Kiklis, Clerk

Stanley Vladyka, Member

Gerald B. Coughlin, Member

Meeting Minutes  
May 7, 2007 7:00 p.m.  
Townsend Memorial Hall,  
BOS Chambers

272 Main Street, Townsend, MA 01469

I. PRELIMINARIES:

1.1 Call the meeting to order – At 7:21 J. Peduzzi called the meeting to order.

1.2 Roll call – Present were Chairman, Jeff Peduzzi, Clerk, Louis Kiklis, Member, Stanley Vladyka, and Administrative Assistant, Jeanne Hollows. Vice-Chairman, Nicholas Thalheimer arrived at 7:30 p.m. and Member, Jed Coughlin arrived at 7:40 p.m.

1.3 Additions or deletions to agenda – None

II. APPOINTMENTS:

2.1 7:10 p.m. Master Plan Update Appointments & Vote to appoint J. Peduzzi as Ex-Officio Member of the Committee – Town residents, Chris Genoter and Will Hackler introduced themselves and stated their interest in joining the Master Plan Update Ad Hoc Committee. J. Peduzzi explained that the committee could solicit input from other boards and departments in town and ask them to provide their five-year plan to be incorporated into the Master Plan. He added there are resources available on the internet. S. Vladyka motioned to appoint Will Hackler and Chris Genoter to the Master Plan Update Committee. L. Kiklis seconded and the motion carried by unanimous vote.

S. Vladyka motioned to appoint J. Peduzzi as an Ex-Officio Member of the Master Plan Update Committee. L. Kiklis seconded. S. Vladyka, L. Kiklis and N. Thalheimer voted in favor. J. Peduzzi abstained and the motion carried.

2.2 7:30 p.m. Village at Patriot Common, DECA, Proctor/Haynes Rd. Definitive / OSPD Subdivision – Continue Public Hearing – At 7:30 p.m. J. Peduzzi re-convened the public hearing and explained one board member would be arriving late. S. Vladyka motioned to continue the hearing to 8:00 p.m. the same evening. L. Kiklis seconded and the motion carried.

At 8:00 p.m. J. Peduzzi reconvened the public hearing and introduced board members. J. Brem of Meisner Brem Corp., engineer for the applicant, on behalf of owner, Peter DeCarolis, of DECA Corp. who was also in attendance, stated their response letter had been provided to the Town's consultant engineers, Holmberg & Howe (H & H).

The Board reviewed the Minutes of March 19<sup>th</sup> and questioned the proposed ownership of the road. Atty. Deschenes stated the Homeowner's Association could own the road and the Town have a Right of Way or Easement to pass and re-pass, but not take ownership. Another option would be to provide a "fee ownership" to the town, which is the preferred choice of most towns, and stipulate that the homeowners take responsibility for any associated maintenance or repair costs. The advantage would be additional State funding if the road is owned by the town.

Jeff Rider of H & H stated that if the Town does not own the road, it would need several easements, i.e. vehicles, pedestrians, utilities, etc. He added that if the Town accepts a "fee ownership" of the road, the town could grant license to have a septic line in the road and include a maintenance agreement for protection to the town if any road repairs were needed.

Abutter, Heide Messing suggested that if a communal septic system is approved with lines constructed under the road, and the town takes a fee interest ownership of the road, there should be a condition of indemnity to say that the Homeowner's Association will hold the town harmless for any costs associated with environmental cleanup in the stream, the water supply or the wells. She added that if repairs were needed to the proposed bridge, it would be very costly and the town could be liable.

J. Coughlin questioned the cost for maintaining a communal septic system. J. Brem responded that the cost is the same for any large septic, which needs inspections, pumping and is professionally managed. Atty. Deschenes explained a residual fee is collected from the Homeowners, including additional deposits if the system needs repairs, therefore, a fund is built up.

A discussion ensued regarding cuts and fills. J. Brem stated it was his understanding the Board agreed to a detail plan shown on 3/19/07. Following another review of that plan, J. Coughlin motioned that the Board make a finding that the "Cut and Fill Plan" as submitted is adequate. N. Thalheimer seconded and the motion carried.

J. Rider responded to a question regarding drainage easements to allow for maintenance as described in Comment #121 – 175-16 K (2). He stated if the town owns the open space, no easement would be need, however if anyone else owns the open space, the town may want easements.

Peter DeCarolis stated he is still unsure who owns land where beaver dams are located. Atty. Deschenes stated that easements would be granted in those areas if needed. J. Brem stated that with the removal of Lot 6, the lot numbering needs to be corrected, and when "Lot 25" becomes "Lot 24" they would agree to put an easement there for potential beaver dam maintenance and also grant permission for the Board of Health or any duly authorized authority to maintain any flow devices as needed in the southwestern corner of the pond.

The Board began a review of the 05-06-07 H & H letter and either concurred with their findings, or addressed the following outstanding unresolved issues, as follows:

145-16 – Regarding lots that may be below mean high water. Only Lot 25 was agreed to.

145-24 C (8) – Regarding runoff draining from driveways onto proposed streets, S. Vladyka stated that Building Commissioner, Rich Hanks, and Highway Superintendent, Ed Kukkula would oversee driveway permitting.

145-25 – Regarding above ground or below ground cable utilities, J. Brem stated overhead utilities would be constructed over the bridge, with a pole on each side.

J. Peduzzi questioned cutting trees. J. Brem stated a full 50' would be cut, as required. J. Peduzzi stated the Board would need to make a finding on this issue.

145-32 – Regarding front yard setbacks from both streets for Lots 23, 24, and 27, the Board agreed there is only one front for each house and only one front set back is needed.

145-39C (3) – The Board made no comment on the following: "With the exception of a few lots, the project is separated from the established single family developments in the area by considerable open space. However the Board must determine if it will have a detrimental effect on the surrounding property."

145-39E(1) – J. Brem stated he is still working on his response to the following comments, “ When a conventional plan is submitted it must demonstrate that each lot shown could accommodate a septic system. *The plans show that 18 of the 27 lots in the conventional layout have little or no deep hole testing to show that the lot could support a septic system. No percolation test results were submitted. Several tests showed that the area did not have the required four feet of naturally occurring pervious material.*

Considerable soil testing has been performed on the site and the Deep Observation Hole Logs submitted for review; however several of the logs submitted do not contain information on the observation. The data provided showed depth to ledge or water table to vary from 32 inches to 115 inches.

The location of the test pits are shown on sheet 18 of 34, however the location of the proposed lots are not show in relation to the test pits. *Plans now show the lots overlaid on the test locations.*

The application contained a one page pro-forma financial analysis for a project containing 27 single-family units; however it did not indicate whether it was for the conventional layout of the OSPD.

No percolation test data was submitted for review.”

145-39E (4) (a) – Regarding the following comments, “No information related to traffic was submitted. *The Community Impact Statement contained projected weekday average, peak AM and peak PM trip generations and average trip generations for the weekend. No information was submitted regarding existing traffic, trip breakdown by direction or level of service.*” J. Brem stated they had done projections and there are no state records and no comparisons, therefore, they will ask for a waiver.

- (c) The Board reviewed the following comment: “As noted previously no percolation test results were submitted for review. Without the lot and street lines shown on the soil test location plan it is very difficult to evaluate the test results in relation to the impact on the streets and septic system. *Only two of the test pits were located in the proposed road layout. In general the tests do show areas of high water table and some of the proposed cuts for the street construction are in excess of 10 feet. If the Board approves the project, it should consider requiring under drains to protect the streets.*”

It was agreed that a Condition for approval would be included to require under drains to protect the streets.

- (e) The Board reviewed the following comments: “The plans show the location of proposed hay bales to protect the wetland and other resource areas and temporary settling basins to help control erosion. The Board may want to consider requiring additional hay bales at the bottom of the proposed cut at the westerly end of Bruschi Pass to help keep sediment from flowing into Proctor Road. The Board may also want to require erosion control matting or other methods of erosion control besides hydro-seeding in areas where the slopes are steeper than 3:1 or where the 3:1 slopes run is longer than 10 feet. If the Board is inclined to implement these suggestions it may want to allow the engineer to submit calculation showing that the additional measures are not required. The proposed road layout results in crossing two wetland areas using concrete bridge spans and concrete retaining walls within the street right of way. A retaining wall is also required at the Proctor Road entrance. The Board may want to have the engineer move the retaining walls outside the right-of-way so that the Town is not responsible for their maintenance. If the Board approves the project, it may want to include a condition that the soil testing for the footings and the design of the bridges be reviewed and approved by a structural engineer prior to endorsing the plans.”

The applicant agreed with all, to be included in Conditions, but took exception to moving the



retaining walls outside the roadway right-of-way.

- (f) As a response to the following comment, "The plan shows cuts and fills for the road construction in excess of 10 feet. The plan does not show proposed grading for the development of each of the lots. The applicant should show how the proposed development preserves or enhances the natural features of the site," J. Brem stated he would include his comments on this in writing to the Board.
- (i) The plans show 60 bounds to be set on the street right of ways, only 2 bounds are shown being set on the open space. For a total of 62 bounds. This number of bounds would require the applicant to provide a check in the amount of \$18,600.00 to the Town as security for setting the bounds. A copy of the check was not included with the copies of the other checks that were submitted. The Board took note that this will be required.

145-39F (2) - It appears that the project meets this criteria, however the area listed on the coversheet for the right-of-ways appears to be smaller than the actual amount. *The area contained in the right-of-ways has been revised but is still approximately 21,000 sq. ft. less than calculated by H&H.* When the correct number is used in the calculation the total does not match the total area of the parcel listed on the cover sheet. *Other areas listed on the cover sheet have also been revised.* J. Brem stated he would consult with J. Rider to determine these calculations.

**2.2.1 Revised Plan, Community Impact Statement & Drainage Calcs** – Submitted. J. Rider of H & H stated he was reviewing the drainage calculations and would submit a review letter shortly.

**2.2.2 Mandatory Referral – Updated responses:** J. Peduzzi read responses from: Board of Health regarding the possibility that beaver dams are located in the proposed "open space," and a memo from the Assessor's Office with an approximate evaluation of \$700.00 for the "open space." J. Peduzzi asked J. Hollows to solicit all Boards and Departments to request feedback and suggestions on who should own the "open space" and how it should be used.

J. Peduzzi read an e-mail from abutters, Kurt & Sherri Nordhaus, of 38 Hog Hill Road, Pepperell, stating that they do not recall receiving any notifications regarding this property prior to 2006, when a Definitive Plan (for "Brady Ave") was filed 3- 5- 04 and approved 7-19-04. They stated the owner, DECA Corp. illegally drove a bulldozer down their property line through wetlands. When Pepperell and Townsend Conservation Commissions were notified, the owner was fined. They went on to say that since they did not receive notification of a Definitive Subdivision, the applicant is in violation of MGL c.41 § 81T of the Subdivision Control Law, which states "...Before approval, ... of the definitive plan is given, a public hearing shall be held by the planning board, notice of ..which...shall be given by...mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in such plan as appearing on the most recent tax list." They asked the Board to rescind the Definitive 2-Lot approval of 7-19-04 and determine it was ILLEGAL and is INVALID. J. Peduzzi responded that based on consultation with Town Counsel, it is the responsibility of the applicant to provide notification or addresses for notification to those abutters who live in other Towns, and the lawyers would have to work this out among them. Another Pepperell abutter, Sarah Sinclair of 30 Hog Hill Rd., stated that she also was not notified of the proposed subdivision and found out after bulldozers were seen on the property.

J. Brem stated that Conservation had closed their hearing and it was his impression that they would deny the project. He also stated he had met with the Board of Health and would like to defer 17 unresolved issues brought out by the Nashoba Board of Health and put his responses "on hold." S. Vladyka stated that Conservation had denied the project.

J. Brem stated that he and the applicant had discussed another option, outlined as follows:

- To address the concern that the proposed "Seymour Way" does not meet the Town's 35' setback requirement, they could eliminate that entrance.
- Create a trail at the end of a proposed cul de sac to connect to an existing trail, and build a 10 ft. wide gravel roadway, thus providing a second entrance to the subdivision. One driveway would serve a dual purpose to connect to the roadway and have a sign designating it as the entrance to the open space and a proposed park.

J. Peduzzi asked J. Brem to send a PDF drawing of this proposal to the Board.

**2.2.3 Holmberg & Howe Report on revised Plan dated 05-06-07** – Partially addressed, as discussed above.

**2.2.4 Holmberg & Howe Original Report – (ID Numbers added by Meisner Brem) & Stan's Comments** – Not addressed.

**2.2.5 Letter of 01-17-07 from Meisner Brem** – Not addressed.

**2.2.6 Review 1 – Summary of Comments** – Not addressed.

At 9:20 p.m., L. Kiklis motioned to continue the hearing to June 11, 2007 at 7:30 p.m. S. Vladyka seconded and the vote was unanimous.

### III. WORKSESSION:

**3.1 Election of Board Officers** – S. Vladyka motioned to nominate N. Thalheimer as Chairman. J. Peduzzi seconded. N. Thalheimer declined to accept due to a change in his work schedule and location. The election was tabled to next meeting.

**3.2 ZBA Referral Notice – Habitat for Humanity Comprehensive Permit** – The Board reviewed a Comprehensive Permit application by Habitat for Humanity to build one 4-bedroom "affordable home" as a "Local Initiative Project" (LIP). N. Thalheimer motioned to respond, "The Planning Board fully supports this project." L. Kiklis seconded. J. Peduzzi, N. Thalheimer, L. Kiklis and J. Coughlin voted in favor. S. Vladyka abstained due to his association with the Housing Authority Chair, who is working on this project. The motion carried.

**3.3 Confirm June Meetings with full Board** – It was the consensus of the Board to set the following dates for upcoming meetings: June 11<sup>th</sup> & June 18<sup>th</sup>; July 9<sup>th</sup> & 23<sup>rd</sup>.

**3.3 Request from Peter Bradley RE: Partial Release, Dudley Meadows Cash Bond** – The Board reviewed a request from Peter Bradley, developer of Dudley Meadows, on Dudley Rd. for a partial release of bond money held on the project. A discussion ensued. P. Bradley asked if lot stabilization funds should be part of the road construction, since it doesn't make sense to build the road then have to rip it up. J. Peduzzi asked J. Hollows to ask Town Counsel if they would approve of releasing bond funds based on performance, and what would be the best approach to handling this request.

**3.4 Request for refund on Bond Money (or interest?) from Clear Shot Communication** – J. Hollows advised the Board that Town Accountant, Kim Fales, stated that any accrued interest held with the Town on a project belongs to the applicant. Peduzzi motioned to return the interest to the applicant.

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S. Vladyka seconded and all voted in favor. J. Hollows stated she would call the applicant to ask that the request be put in writing.

**3.5 Wind Power – Review Draft Ordinance** – L. Kiklis mentioned there is a clause in the draft requiring a renewal every five years, and based on the cost of \$60,000, he would not agree to have a tower built on his property with a by-law containing a renewal clause. It was the consensus of the Board to table this item till the May 21<sup>st</sup> meeting.

**IV. CORRESPONDENCE:**

The following correspondence was received and noted by the Board:

- 4.1 Environmental Notification Form Turnpike Village – Received per Condition of Zoning Board Decision**
- 4.2 Energy & Environmental Affairs Notice of Self-Help & Urban Self-Help Grant Funds**
- 4.3 NRWA Smart Growth Publication**
- 4.4 Notices from Townsend/Other Towns**

**V. ADJOURNMENT**

At 10:10 p.m. J. Peduzzi motioned to adjourn the meeting. N. Thalheimer seconded. The motion carried by unanimous vote.

(Transcribed from notes)  
Respectfully Submitted by

Jeanne Hollows  
Planning Board Administrative Assistant



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THE PLANNING BOARD  
272 Main Street  
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**Jeffrey R. Peduzzi, Chairman**

**Nicholas E. Thalheimer, Vice-Chairman**

**Louis C. Kiklis, Clerk**

**Stanley Vladyka, Member**

**Gerald B. Coughlin, Member**

**Meeting Agenda**

**May 7, 2007 7:00 p.m.**

**Townsend Memorial Hall,**

**272 Main Street, Townsend, MA 01469**

**I. PRELIMINARIES:**

- 1.1 Call the meeting to order
- 1.2 Roll call
- 1.3 Additions or deletions to agenda

**II. APPOINTMENTS:**

- 2.1 7:10 p.m. Master Plan Update Appointments & Vote to appoint J. Peduzzi as Ex-Officio Member of the Committee
- 2.2 7:30 p.m. Village at Patriot Common, DECA, Proctor/Haynes Rd. Definitive / OSPD Subdivision – Continue Public Hearing
  - 2.2.1 Revised Plan, Community Impact Statement & Drainage Calcs Submitted
  - 2.2.2 Mandatory Referral – Updated responses: Board of Health RE: Beaver Dams located in “open space;” Assessor’s Office Revenue Evaluation; Abutters e-mails & letters.
  - 2.2.3 Holmberg & Howe Report on revised Plan dated 05-06-07
  - 2.2.4 Holmberg & Howe Original Report – (ID Numbers added by Meisner Brem) & Stan’s Comments
  - 2.2.5 Letter of 01-17-07 from Meisner Brem
  - 2.2.6 Review 1 – Summary of Comments

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- 3.2 ZBA Referral Notice – Habitat for Humanity Comprehensive Permit
- 3.3 Confirm June Meetings with full Board – June 11<sup>th</sup> & June 18<sup>th</sup>.....?
- 3.4 Request from Peter Bradley RE: Partial Release, Dudley Meadows Cash Bond
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Next Meeting Date: Regular Meeting – Monday, May 21, 2007 at 7:00 p.m.