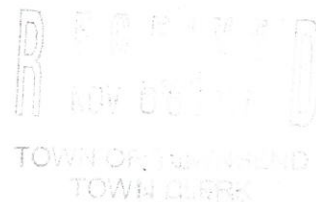




Office of  
**THE PLANNING BOARD**  
272 Main Street  
Townsend, Massachusetts 01469  
978-597-1722



Stanley Vladyka, Chairman  
Louis C. Kiklis, Clerk

Nicholas E. Thalheimer, Vice-Chairman  
Jeffrey R. Peduzzi, Member

Gerald B. Coughlin, Member

Meeting Minutes  
September 24, 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 7:02 S. Vladyka called the meeting to order.
- 1.2 **Roll call** - Present were Chairman, Stanley Vladyka, Vice-Chairman, Nicholas Thalheimer, Member, Jeff Peduzzi, and Administrative Assistant, Jeanne Hollows. Clerk, Louis Kiklis arrived at 7:35 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. A N R – 86 Barker Hill Rd.** – David DeBay, of Cornerstone Land Consultants presented a plan to re-locate lot lines between two abutting properties, one owned by William Giguere and the other owned by William Giguere, Trustee of CCS Realty Trust. The change would involve creating one parcel from each lot to be conveyed and joined to the other lot to make both lots conform to zoning requirements for frontage and acreage. J. Peduzzi stated he would like to see the Board enforce the requirement to show the USGS Benchmark as outlined in Article II, §175-10 D. (10) in the future, however he motioned to waive that requirement for this plan. S. Vladyka seconded and N. Thalheimer, J. Peduzzi, and S. Vladyka voted in favor. J. Peduzzi moved to approve the plan as waived. S. Vladyka seconded and S. Vladyka, N. Thalheimer, and J. Peduzzi, voted in favor. L. Kiklis abstained, as he was not present for the review. The plan was endorsed.

**2.2 7:30 p.m. Century Estates (“Turner Townsend”) Conceptual Proposal** – Atty. Lisa Mead stated she is a new counsel employed by the applicant of a proposed Turner Road 11-lot subdivision on 44 acres entitled Century Estates to try to resolve litigation that has been in land court since 1999. She explained that a former Planning Board had approved an Open Space Preservation Development (OSPD) Special Permit on 02-12-99. Abutters filed an appeal of that Decision. A Definitive Plan for the same project was denied in June, 1999. The Board rescinded the OSPD approval in September, 1999. The applicant appealed the rescission in Land Court. Following discussion with Town Counsel, Kay Doyle, Atty. Mead stated it is the applicant’s desire to resolve the case by bringing back his proposal to a Board made up of primarily different members.

J. Peduzzi explained he was a new member of the Board when the applicant came back with their Definitive Plan proposal, but was not involved with the OSPD approval. He recalled some issues with the proposal as follows:

- Depth to ground water on the property was only about 4’ and the geology has not changed.
- Several mounded septic systems would be unsightly and unacceptable.
- Insufficient soils on sight would require an exorbitant amount of fill to be carried in.

Page 2

- A dead end road with a cul-de-sac is not allowed without benefit to the public.

Atty. Mead noted the following:

- Several issues were in process to be resolved prior to going to court.
- The applicant believed Pumpkin Brook to be an "intermittent" stream, while the Conservation Commission stated it was a "perennial" stream. The DEP later determined the stream was "intermittent."
- If this Board agreed to resolve out of court, a modified plan would specify that any mounded septic systems resulting at least 1' above grade would be screened and camouflaged with landscaping, walls, etc. Clearing of trees would be limited.

Richard Harrington, consultant engineer for the applicant attended the meeting and stated:

- Title V regulations have evolved and there is new technology available for septic systems.
- Materials can be used from on site rather than reducing grading.

S. Vladyka stated he could check with Highway Superintendent, Ed Kukkula to see if the development could connect out to another road. J. Peduzzi stated the nearby road is private where abutters in residence were in opposition to the development.

J. Peduzzi stated the procedural methods and code numbers have all changed, and it would not be practical for the Board to review the former application and peer review reports, but suggested the applicant come back with a Preliminary Plan. It was the consensus of the Board to ask the applicant to come back to further discuss their request for resolution on October 15<sup>th</sup> at 8:30 p.m.

**2.3 8:50 p.m. Mark Charest, 76 Barker Hill Road** – Town resident, Mark Charest attended the Planning Board and asked if he needed to apply for a special permit under the Scenic Roads Act in order to move a stone wall on his property, closer to the road. J. Coughlin motioned to allow the work without a permit, as long as it was not in the town's Right of Way. J. Peduzzi seconded and all voted in favor.

**2.4 8:00 p.m. Village at Patriot Common, DECA, Proctor/Haynes Rd. Definitive / OSPD Subdivision – Continue Public Hearing** – At 8:20 p.m. the hearing was reconvened. N. Thalheimer introduced the Board. Owner/developer, Peter DeCarolis addressed the Board to ask them to consider granting a special permit for 22 lots. He described the revised project as follows:

- Shared septic system with infrastructure moved out of the road.
- A gravel road as a secondary access with a bridge.
- Number of cul-de-sacs was reduced to one.
- The plan proposes to build on 20 acres and leave 90 acres of preserved land. The sheer volume of open space should meet the standard for public benefit.
- With a reduction from 27 lots to 22, he believes the OSPD is better than a conventional plan and is asking the Board for a compromise.

P. DeCarolis stated he paid \$100,000 in taxes on land assessed as "build-able" since 1999. He also explained the land was bought as an investment and now handed down into an estate of which he is the executor. He added he wants to be up front with the Board and since he has a fiduciary responsibility to his family, if the project is denied as an OSPD, he will proceed with his options, including: filing an appeal, submitting a Conventional Plan, or filing for a development under MGL Chapter 40B.

J. Peduzzi questioned if the project could be built conventionally and if all lots would perk, without excess cuts and fill and without mounded septic systems. Engineer, Jeff Brem responded that all lots passed a perk test, and only lot, A9 has not yet been tested because they ran out of time. Doug Deschenes, attorney for the applicant stated that all 22 lots could perk, if a special permit is approved, and it would be a shame to utilize all of the property to build a conventional. P. DeCarolis added he would be forced to build 25-27 homes with a conventional plan to offset financial expenses. J. Peduzzi asked if lots perk, why pump up to other lots? J. Brem stated Title V allows and encourages the use of

Page 3

shared systems, and without it, more fill would be needed. P. DeCarolis added that with a shared system, there would be no need for mounded septic systems on individual lots.

Abutter, Julie Ward asked why the center line is still not shown on the plan and how can she tell whether or not the proposed road will infringe upon her land. S. Vladyka stated she would have to hire a surveyor, and if there is a dispute, take it to land court. J. Ward also asked why the developer couldn't make a loop road off Haynes Road and eliminate the Proctor road entrance.

S. Vladyka asked how the developer would be able to receive approval on the septic design when the Board of Health Rules and Regulations require septic systems to be located on the lots they serve. It was the consensus of the Board to allow a continuance so the applicant could go before the Board of Health with a request to act on a waiver of that regulation based on new Title V regulations which encourage shared systems when over 50% of the land would remain as "open space."

When the applicant asked the Board to take a vote on approving the OSPD application with 22 homes, J. Coughlin motioned to vote on the issue. With no second, he revised his motion to request that a "straw poll" vote be taken to approve the 22-lot OSPD. S. Vladyka seconded, and a roll call "straw pole" vote was taken as follows: J. Coughlin – yes; J. Peduzzi – yes, subject to conditions he would have to be in favor of, and asked what the proposed use of the "open space" would be; L. Kiklis – a conditional yes, pending a favorable resolution of unresolved issues; N. Thalheimer – yes, based on the sheer volume of "open space" to be preserved; S. Vladyka – no, as he is still not happy with the location of the communal septic system, however, he does not want to see a "40B" project.

S. Vladyka suggested the open space could be designated for Boy Scouts / Girl Scouts. They could help maintain trails, and also use the area for camping. The applicant stated he would be in favor of such a use.

At 9:20 p.m., J. Coughlin motioned to continue the hearing to October 15, 2007 at 8:15 p.m. J. Peduzzi seconded and all voted in favor.

**2.4.1 Response from Town Counsel RE: Grandfathering Question / to be deemed a "Rescission or Modification of the 2004 Plan," if approved / BOH Regs page** – Received by the Board without comment.

**2.4.2 Copy of Alternative Analysis provided to DEP by Meisner Brem** - Received by the Board without comment.

### **III. WORKSESSION:**

**3.1 Sterilite Question RE: Peer Review** – A discussion ensued regarding whether or not to employ an outside consultant/engineer to review the plans submitted for the Town Highway Facility to be built by Sterilite. J. Peduzzi stated he thinks it unnecessary because this is a municipal project being gifted to the Town, rather than a "for profit" project, and there would be no reason for the builder to try to cut corners to gain profit. Only a "Conceptual Plan" had been submitted, therefore the Board could not make a determination on whether or not sufficient information would be provided. Since David Ross Associates was expected to submit a detailed plan by 9/28/07, it was the consensus of the Board to again address the issue at their 10/01/07 meeting.

**3.2 ZBA Mandatory Referral – Sterilite, Special Permit application Dept. of Public Works Facility, Main St.** – J. Peduzzi motioned to respond, "the Planning Board fully supports this project." N. Thalheimer seconded and the vote was unanimous.

**3.3 Deer Run Performance Guaranties & Final Endorsement Procedure** – It was the consensus of the Board to have Town Counsel, Kay Doyle look at the Covenant Contract when it is submitted.

Page 4

**3.4 Rate of Development Example of Special Permit Exemption** – J. Coughlin moved to ask Town Counsel, Kay Doyle include the Special Permit Exemption in the draft amendment for the Rate of Development Bylaw. J. Peduzzi seconded and the vote was unanimous.

At 9:25 p.m. J. Peduzzi left the chambers.

**IV. CORRESPONDENCE:**

The following correspondence was received and noted by the Board.

- 4.1 Letter from Attorney General's RE: Warrant Articles**
- 4.2 Citizen Planner Training – Fall Schedule of Workshops**
- 4.3 Notices from Townsend/Other Towns**

**V. ADJOURNMENT**

At 9:35 p.m. J. Coughlin motioned to adjourn the meeting. N. Thalheimer seconded and all four remained members voted in favor.

(Transcribed from notes)  
Respectfully Submitted by

Jeanne Hollows  
Planning Board Administrative Assistant



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

**Stanley Vladyka, Chairman**

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

**Louis C. Kiklis, Clerk**

**Jeffrey R. Peduzzi, Member**

**Gerald B. Coughlin, Member**

**Meeting Agenda**

**September 24, 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
- 1.4 Acceptance of Minutes of August 27, 2007

**II. APPOINTMENTS:**

- 2.1 7:10 p.m. A N R – 86 Barker Hill Rd., William Giguere, Cornerstone Land Consultants
- 2.2 7:30 p.m. Century Estates (“Turner Townsend”) Conceptual Proposal
- 2.3 8:50 p.m. Mark Charest, 76 Barker Hill Road – Moving Stone Wall Question
- 2.4 8:00 p.m. Village at Patriot Common, DECA, Proctor/Haynes Rd. Definitive / OSPD  
Subdivision – Continue Public Hearing
  - 2.4.1 Response from Town Counsel RE: Grand-fathering Question / BOH Regs page
  - 2.4.2 Copy of Alternative Analysis provided to DEP by Meisner Brem

**III. WORKSESSION:**

- 3.1 Sterilite Question RE: Peer Review?
- 3.2 ZBA Mandatory Referral – Sterilite, Special Permit application Dept. of Public Works Facility, Main St.
- 3.3 Deer Run Performance Guaranties & Final Endorsement Procedure
- 3.4 Rate of Development Example of Special Permit Exemption

**IV. CORRESPONDENCE:**

- 4.1 Letter from Attorney General’s RE: Warrant Articles
- 4.2 Citizen Planner Training – Fall Schedule of Workshops
- 4.3 Notices from Townsend/Other Towns

**Next Meeting Date: Regular Meeting – Monday, October 1, 2007 at 7:00 p.m.**