

*Received for Recording
January 17, 2011
J. Sheldon
Town Clerk*

APPROVED

HUNTINGTON PLANNING COMMISSION
Minutes of December 13, 2010

PRESENT: Tom Bailey, Gordon Miller, Heidi Weston, Heather Pembrook, Charlotte Barrowman, Brett Lindemuth, Everett Marshall

ABSENT:

OTHERS PRESENT: Don Sheldon, Dori Barton, David Worthley, Debbie Worthley, Nancy Grover

MINUTES: Heidi Racht

AGENDA:

- 7 pm Minutes of November 29, 2010
- Mail
- 7:15 Don Sheldon Sketch Plan Review
- 7:45 Public Comment
- Member Business
 - 1. Town Meeting Elections
 - 2. Work Plan for 2011
- 8 pm Special Flood Hazard Area Regs
- 9 pm Adjourn

The meeting was called to order at 7:07 pm; chaired by Tom Bailey.

Minutes of November 29, 2010	Everett Marshall moved to approve the minutes of November 29, 2010; seconded by Brett Lindemuth.	The minutes of November 29, 2010 were approved unanimously with many changes.
Mail	None.	No action taken.
Don Sheldon Sketch Plan Review	<p>Heather Pembrook recused herself from the review.</p> <p>Don Sheldon gave an overview of the history of the subdivision, which was originally part of the Hanson estate. In the 1996, the original farm was divided into five parcels with Sheldon purchasing land off the road, which he divided into three parcels in 1999. Sheldon said that this is the last parcel in the Lower Village than could be subdivided into one-acre lots.</p> <p>The project was presented by Dori Barton. Sheldon is proposing dividing his parcel into three, which includes the parent lot with his residence, a 1.35-acre building lot (Lot 4D), which the Worthleys are interested in buying, and a deferred lot of 2.25 acres (Lot 5E), which will be told to Dean and Nancy Grover with a deed restriction</p>	

for forestry, agriculture or conservation. Barton explained that the property acquired by the Grovers would be used for agriculture. Heather Pembroke questioned the definition of agriculture and suggested land conservation as a deferred use. Barton explained that the Grovers would be attaching this to the lot that the Grovers purchased from the Hanson estate, not the property they have owned for 20 years.

Barton explained that Lot 5D had a Class II wetland delineated. The proposed house site allows for the 50' buffer, per town and state regs. She said that a state permit is not required since the house site is outside the buffer.

In answer to a question, Barton again said that a State wetlands permit (formerly known as a Conditional Use Determination) is not needed. She pointed out a hemlock swamp at the toe of a slope away from the house site which transitions on the Lacaillade property. Barton stated that there would be no change in use in the wetlands buffer and no plans to do any clearing in the wooded part of the buffer.

There will be a utility transformer for the new house to tie in; located in the existing ditch, it is an allowed use in an existing disturbed area. She suggested looking at the wording in the regs to take into account the existing disturbances.

Barton said no protected species were identified.

Heidi Weston asked about a letter from the State, which Barton said will be provided to show approval for utility work.

Septic was then discussed with Barton explaining that the easement was on the parent lot (5C). Dean Grover will handle the Wastewater Permit with the State.

Weston asked whether wastewater could be put on conserved land. Since the easement exists, why would this be deferred conservation?

Barton said that the greatest level of disturbance would be from a wastewater installation. There is an existing

	<p>wastewater permit from the State. Currently, Don Sheldon cuts the property once per year.</p> <p>Tom Bailey summed up that a wetlands permit will be done as a <u>condition of subdivision approval</u>.</p> <p>Barton went on to discuss other aspect of the project:</p> <ol style="list-style-type: none"> 1. prime ag soils is on a small area of the land, which is not viable ag land because of its size; 2. a deeryard is located 1500' south of the site; 3. Ron LaRose is doing the survey; 4. Dean Grover is working on the well shield. <p>After examining the site plan for the proposed house (5D), Bailey suggested making the house envelope "more forgiving."</p> <p>In further discussion about the deferred lot (5E), Barton explained that the project was proposed as a Minor Subdivision with this as a conserved piece. Nancy Grover explained that the wastewater permit says "everything has to be returned [to its original state]."</p> <p>Bailey asked Don Sheldon if "one affected the other." In other words, would the transfer of the lot to the Grovers be tied into the lot to be purchased by the Worthleys in order for Sheldon to proceed with the building site sale.</p> <p>Heidi Weston added, "You are using it so it might not be conserved."</p> <p>There was discussion about whether putting in a wastewater line was a form of development.</p> <p>Sheldon suggested that a separate proposal could be done, but they were trying to be expedient and not have two subdivision hearings.</p> <p>Barton asked what the Board was going to use in the regs as conservation and proposed that it should be resolved.</p> <p>Bailey said that the Commission would entertain an article to transfer the property to the Grovers, but require <u>a condition that they would have to come back to the commission if there was any development</u>.</p>	<p>Condition of approval: any development of Lot 5E would require a decision by the Planning Commission.</p>
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	<p>After more discussion, Charlotte Barrowman asked if there was any practical reason not to allow the transfer. Bailey replied that the State now decided on the permit. Weston objected and Everett Marshall said, “This deferred the decision.”</p> <p>Grover again said there were no plans to develop Lot 5E.</p> <p>Barton said, “We came in here ready to defer and state that it would be undeveloped.”</p> <p>Bailey asked, “Do we agree that building a subsurface wastewater line and covering it back up is conservation?”</p> <p>Gordon Miller expressed concern that the issue of the major and minor subdivision was being “skirted” and that this was a loophole.</p> <p>Brett Lindemuth allowed as there was “consistency to go with this” and then add to the list of improvements to be made to the regs.</p> <p>Bailey suggested allowing a subsurface wastewater line with putting the property back to its original condition.</p> <p>Grover added, “We don’t plan to change anything; it will look the same.”</p> <p>Barton asked the Commission to vote.</p> <p>Everett Marshall moved to follow the applicant’s petition to go with a Minor Subdivision; seconded by Charlotte Barrowman.</p> <p>After some discussion on the conditioned lot, the motion passed 5-0, with Heidi Weston abstaining and Heather Pembroke recusing herself.</p> <p>A Site visit was scheduled for January 2 at 10 am.</p> <p>It was confirmed that Gordon Miller was the HPC contact for the project.</p>	<p>The Commission voted to have the applicant’s petition for a Minor Subdivision proceed to Final Review.</p> <p>A Site Visit was scheduled to the Sheldon property on January 2 at 10 am.</p>
Public Comment	No public present.	No action taken.
Member Business	<ol style="list-style-type: none"> 1. Positions on the Commission – three are open in March 2. Tom Bailey discussed creating a work plan for 	

2011 that included what to do besides Flood Regs. He reviewed how the Subdivision Regulations and Zoning Regulations had been worked on in 2010 and said that he would send the proposed changes to start the discussion. The Commission had spent some time working on updating the regulations and then worked on the Flood Regs.

3. Heather Pembroke mentioned that the Town Plan needs to be reviewed, revised and re-adopted in 2012.

In further discussion, the Commission talked about creating priorities for a work plan, with Everett Marshall advocating for Zoning Regulations housekeeping of existing regulations as the Zoning Administrative Officer, the ZBA (Zoning Board of Adjustment) and the HPC have ascertained as needing necessary clarifying and updating and Heidi Weston supporting this choice.

Charlotte Barrowman asked when the Town Plan has to be revised. In response, Marshall explained that the town rewrote the regs because of changes in the Municipal Planning Act; Act 117 was revised in 2003.

He then asked, "If we get the Municipal Planning Grant, what would our involvement be as a Commission?" Bailey replied that the Selectboard would appoint a committee; it would have no more than three HPC members.

Bailey said that he and Gordon Miller had met with consultants and had questions with how they got the process started. Miller explained that they had been told that an "engaged community" had met once per week for one hour – the committee would be a commitment in order for a successful outcome.

Marshall asked if the Commission would work on the Town Plan while the work on the grant was being done. Thus, the Commission would also be addressing the update of the Town Plan for 2012.

Lindemuth asked if this could be done in 2011. After some discussion, Pembroke commented that the Commission was "relying on information from a survey

	<p>done in 1999.” She also commented that she would like the Town Plan to be a “useful document, rather than just listing things.”</p> <p>There was then discussion about surveys as compared to hearings and the value of each. Weston suggested having a breakfast to get people to come in and discuss their opinions.</p> <p>4. The 2011-2012 budget was reviewed. Everett Marshall volunteered to write the HPC report for the Town Report (due in early January).</p>	
<p>Flood Regs</p>	<p>Tom Bailey passed out two versions of the Flood Hazard Area Regulations: one had track changes on it, while the other was a “clean” copy.</p> <p>It was ascertained that no one had to leave the meeting early and the document could be reviewed in full with a goal stated by the chair of making a decision that evening.</p> <p>Under Section 161, changes in the language that required the town to notify the state had been deleted because it is not a permitted use: notification from the State isn’t required. The Zoning Administrator can issue a permit.</p> <p>Under Section 173.3, a condition of approval by the ZBA (Zoning Board of Adjustment) so the project isn’t held up. Permit needs to be shown before construction begins.</p> <p>Under Section 174.1, Heidi Weston suggested deleting Section i. After some discussion, the Commission voted 4-3 (Weston, Lindemuth and Barrowman voted against) to leave it in. Gordon Miller commented that the Commission could always review this again after the public hearing.</p> <p>Brett Lindemuth raised the issue of Conditional Use.</p> <p>Weston opined it wasn’t appropriate to have 174.1 b since the landowners has already met other criteria and have to go through a No-Rise certification. She said that 174.1 b allows the ZBA too much latitude. She proposed deleting; however, The Commission voted in favor to keep it in with Weston and Lindemuth voting against it.</p>	

	<p>Lindemuth noted that there was nothing in Section 122 (Purpose) that addressed conservation. Marshall pointed out that the purpose included health and welfare, which are human and environment.</p> <p>Weston said, "If people are making decisions for purposes of conservation, it should be clear."</p> <p>Marshall said that the Town Plan discussed protecting watercourses and flood plains.</p> <p>After some additional discussion, Marshall proposed additional language in the purpose to include:</p> <p>"to protect watercourses and flood plains that are extremely important natural resources."</p> <p>The Commission voted 5-2 to include the language, with Bailey and Miller voting no.</p> <p>Miller then said, "I recognize there are limits to property rights. They are not absolute and subject to regulation by local, state and federal government. The Federal government is writing the check and insuring property. Adding stuff on doesn't forward the objective."</p> <p>Lindemuth proposed having two standards for different areas in the flood area, as a lot of people say they want more than the minimum. It is important that there should be a distinction from one area to another and to recognize this with the use of different standards. The purpose is not just to get flood insurance. Conditional use goes way beyond helping people get flood insurance.</p> <p>He then called Miller on having changed from his position at the June 14 meeting. Pembroke asked why this was useful and Lindemuth replied that it "isn't garnering any respect."</p> <p>Continuing the point on the two sets of standards for different areas of the flood area, he said that "one percent of the outlying area is just going to get wet."</p> <p>Bailey asked if anyone had any specific changes to the document that was on the table. None were stated.</p>	<p>The Commission voted to include language in Section 122 "to protect watercourses and flood plains that are extremely important natural resources."</p>
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	<p>Gordon Miller moved to adopt the proposed regulations; seconded by Heather Pembrook.</p> <p>In discussion, Brett Lindemuth said that in Section 174.1, he would like to figure out a way to create a framework for a lower standard in less sensitive areas and a more thorough review in sensitive areas. One phenomenon that triggers Conditional Use is “the time problem.” To the extent that Conditional Use is needed, a set of criteria with more traditional criteria “in the Special Hazard Area or Floodway” should be applied. He suggested allowing the ZBA to issue a permit after the non-local (State and Federal) agencies have weighed in.</p> <p>Heidi Weston proposed to add an amendment to have Section 174.1 have two sets of criteria for the flood zone and the floodway. In the Special Flood Hazard Area, when reviewing, the ZBA shall assure all Federal, State and municipal requirements for building are met; seconded by Brett Lindemuth.</p> <p>Marshall said, “I think it’s a bit of an odd thing. The State’s not going to find it acceptable, if we don’t have a process for Conditional Use.” He went on, “It’s bad for the town, public safety and environment if we don’t have Conditional Use.”</p> <p>Lindemuth responded, “I’m happy to leave it here with two levels of Conditional Use. I perceived it as a good compromise. I can go back to both sides. If not, I will tell them exactly what happened.”</p> <p>Marshall then said that this is not a compromise at this time. The compromise was new construction in the floodway [sic]. The proposed regs have development in the SFHA. “We have compromised a ton.” He went on, “You have threatened to go back and cause divisiveness.”</p> <p>Heather Pembrook called the question on the amendment; seconded by Gordon Miller. The amendment was defeated 4-3 with Barrowman, Weston and Lindemuth voting yes.</p>	<p>An amendment to have two sets of criteria for construction in the flood zone and SFHA for Conditional Use was defeated.</p>
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	<p>The Commission then voted on the motion to adopt the proposed regulation. The motion passed 4-2 (Weston and Lindemuth voted against), with Barrowman abstaining.</p> <p>Several dates for a public hearing were discussed. The school had fewer available nights than the library. Everyone agreed that the venue should be the school instead of the library because it was a bigger room. The decision was made to have the hearing on Tuesday at the school instead of Monday at the library.</p> <p>Tom Bailey asked the Commission to approve the cover sheet for the proposed regulations. This document is required by State Statute.</p> <p>Brett Lindemuth moved to approve the cover sheet; seconded by Gordon Miller. The motion passed unanimously.</p>	<p>A motion to adopted the proposed regulation was passed.</p> <p>The Commission decided to warn a Public Hearing for Tuesday, January 18, at 7 pm at Brewster-Pierce School.</p> <p>A motion to approve the cover sheet, as required by State Statute, to forward with the proposed regulations to the surrounding towns and other statutory recipients, passed unanimously.</p>
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Adjournment: Brett Lindemuth moved to adjourn; seconded by Heather Pembroke. The meeting adjourned at 10:05 pm.

UNAPPROVED MINUTES TO THE HPC: December 28, 2010.

MINUTES APPROVED: January 10, 2011

APPROVED MINUTES TO THE TOWN CLERK: January 15, 2011