

## Planning Board Minutes March 28, 2006

BOSTON PLANNING BOARD MARCH 28, 2006

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Tim Kirst, Secretary

David Bernas

Robert Chelus

Jeff Mendola

EXCUSED: J. David Early

ALSO Richard Brox Planning Consultant

PRESENT: David Brown Prospective Planning Board member

Jeffrey Genzel Prospective Planning Board member

William McGirr Prospective Planning Board member

Sara Donhauser Government Class Student ? Springville G.I.

Emilee Hoelscher Government Class Student ? Springville ? G.I.

Councilman Hopkins, Supervisor Eagan and Town Attorney Downey arrived late following another meeting regarding Boston Hills Subdivision.

Following interviews with the prospective members, Mr. Kirst made a motion to table decision on recommendations until the April 11, 2006 meeting, seconded by Mrs. Hacker and carried.

Chairman Hacker called the meeting to order at 7:50 P.M.

## MINUTES

Mr. Stringfellow made a motion to accept the minutes of January 24, 2006, seconded by Mr. Chelus and carried.

## CORRESPONDENCE

Secretary Kirst reported the following:

- Planning Board letter of January 25, 2006 to Town Board with recommendation of approval for the Ken Schunk duplex on Brown Hill Road;
- Planning Board letter of January 25, 2006 to the Schunk?s advising them of the recommendation and asking for clarification of the number of bedrooms per unit;
- Letter dated February 1, 2006 from Ken and Ann Schunk advising two (2) bedrooms per unit in the duplex;
- Planning Board Chairman letter dated February 2, 2006 to Town Board asking for appointment of Robert Chelus as a regular member of the Planning Board, upon receipt of Mr. Chelus? letter,
  - o Secretary Faulring had not received confirmation of Mr. Chelus? appointment, however Mr. Chelus said that he did receive a letter from Town Clerk Shenk; Secretary Faulring noted that according to Town Board minutes, he was appointed at the February 15, 2006 meeting, his term expiration is February 1, 2013;
- Updated Town Hall Directory, committee members

## NON-AGENDA ITEM

Secretary Faulring distributed updated Tanglewood Acres site plan

Mr. Brox: it?s the final plat, which is the last page, the rest is engineering drawings. I reviewed the revised plan and find it?s final plat submittal. It appears to be complete, has met the requirements, and the Planning Board may wish to schedule a Public Hearing on the Final Plat prior to signing the plat for filing. The concerns of the Town Engineer have been taken care of; all the questions that the Planning Board had at times have been answered. So now it?s a matter of scheduling a Public Hearing, if you feel it?s necessary because there was never a Public Hearing on the Preliminary Plat.

Mrs. Hacker: Are we required to have a Public Hearing?

Mr. Brox: You have to have a Public Hearing on a subdivision either at the Preliminary Plat stage or one at the Final Plat stage, or both if there were substantial changes to the Preliminary Plat, here there were no substantial changes.

Mr. Brox: You have thirty days to hold the Public Hearing, then forty-five days after the Public Hearing to approve or disapprove the plat.

Discussion followed regarding timing of Public Notice in regards to Public Hearing.

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Mrs. Hacker asked Secretary Faulring to have the Public Notice published in the ?Sun? and ?Journal? on April 13, 2006 for the Public Hearing on Tuesday, April 25, 2006 at 7:45 P.M.

No motion was made on acceptance of plats submitted.

Mr. Stringfellow questioned the position of the light standard, which did not appear to be shown on the site plan.

Mr. Brox: It is to be at the throat of the entrance, I see a pole with two hooks on it.

Chairman Hacker asked that discussion be tabled until April 11, 2006.

Secretary Faulring distributed complete set of subdivision check-off list.

OLD BUSINESS

7346 Boston State Road ? nothing received as of yet

In the absence of Councilman Hopkins, Chairman Hacker asked for a motion to adjourn, so moved by Mr. Mendola.

Secretary Faulring said that Councilman Hopkins wanted to go through Chapter 104, looking for suggestions of revisions, deletions or additions. She suggested that the Board start the discussion without Mr. Hopkins, as he had mentioned that the Town Board wanted to submit the changes sometime in April.

#### WORK SESSION TO REVIEW TOWN CODE ? CHAPTER 104 ? SUBDIVISION OF LAND

Mrs. Hacker: Sub-division check-off lists will be discussed at a future date, following review.

Mr. Brox: I did go through the Code Book, and I would suggest that you do the same, and make notes in the margins, of changes, deletions or additions. Some changes I did make note of were:

- Number of copies for distribution
- 10 days instead of 5 days for Public Hearing Notice
- Rezone prior to submittal of preliminary plat
- Change linen to mylar, or cloth and mylar
- Submission to the Town Board ? prior approval of the preliminary plat, we'd give it to the Town Board to look at, not the final plat
- Recreation Fee is set at \$300.00 per lot: don't have a set amount ? make it ?at the discretion of the Town Board?
- Set higher fee schedule
- Street names should be reviewed, at a minimum by the fire departments and others, including the Planning Board
- Section 104-30 - delete entirely

Other discussions included:

- ?T? turnarounds versus cul-de-sac
- signage

#### LIAISON ? COUNCILMAN HOPKINS

Mr. Hopkins: Why I wanted to have the meeting was so that we could work on the subdivision check-off list.

Mrs. Hacker: We were all given a complete copy, which we will review and work on at the next meeting.

Mr. Hopkins: We are working on the Code Book ? ?T? turnarounds and cul-de-sac?s. When we left off with the ?T? turnaround on Deer Run, it was May 11, 2004. Does anyone remember, after dealing with Mr. Eckis, we wanted him to bring it up to Code, the temporary ?T? turnaround we were going to allow him to keep, because the Highway Superintendents liked them better; but this one doesn?t even meet the Code for a temporary ?T? turnaround. Pavement wise it was only 18 feet wide and 30 feet long, where it?s supposed to be 24/50.

Mrs. Hacker: I met up there with (former Highway Superintendent) Dick Poore and we mapped it out, it was supposed to be addressed with Gary Eckis and I don?t believe it ever was.

Mr. Hopkins: The people with the 7-acre lot were at the meeting tonight, and they want to come off the ?T? turnaround, and there isn?t enough room to do it.

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Mrs. Hacker: That was how it was left, that there would not be a driveway off the ?T? around, unless it adjoins one of the other driveways.

Mr. Hopkins: It appears that Gary (Eckis) went up there and put in culvert pipes, one driveway was put in; the one for the 7-acre lot was just laying there, but these people want to build their driveway off the other side instead of going toward the 219 side of the ?T? turnaround.

Mrs. Hacker: To go hillside, they would have to get a right-of-way easement from the adjoining landowners, and come in where the initial driveway is, the one that had to be moved.

Mr. Hopkins: The last large lot, Mr. Eckis was going to put in the sale that there was going to be an easement so that everyone could have a driveway to their lot. That way there would be only so many driveways coming off the T? turnaround. What I'm hearing now is that after our last meeting with Mr. Eckis in April, he sold two lots in May of 2004, but he never put an easement into the sale.

Lengthy discussion followed regarding past discussions at this Board, meetings with Mr. Eckis, and other minor discussions regarding T? turnarounds versus cul-de-sacs

Supervisor Eagan: Did this Board approve that private driveway that goes back off that..

Mrs. Hacker: Ted's (Liaris) was never an approved driveway, it was something that was put in way before any of this happened with Mr. Eckis and it was never approved by the Board and it was never allowed, and it was noted every step of the way.

Supervisor Eagan: Thelma, (Secretary to the Boards & Committees) when a decision is made by this Board is that put in a letter and sent to the applicant?

Mrs. Hacker: Absolutely.

Supervisor Eagan asked the Secretary to find any correspondence that went between this Board and Mr. Eckis.

Discussion followed regarding the Tuttle's driveway and the Liaris driveway being shared.

Mrs. Hacker: Correct, and that was the only condition he had to get on and out of the T? turnaround; and the only reason they were allowed that entrance to the T??

Mr. Hopkins: So now you're saying that was allowed.

Mrs. Hacker: Tuttle's was allowed, I'm not saying Liaris was ever allowed, my understanding is from the Town Attorneys, whoever owned the adjoining properties got permission from the current landowners, who had use of that driveway, as a personal driveway, he could make an agreement with them, legally, to go on their on property to exit on their driveway. We can't control that. I was told that has never been done.

Mr. Hopkins: Not for these people that we just spoke too, that 6.9 acres?

Mrs. Hacker: They're the other piece in here?

Mr. Hopkins: That piece was created?

Mrs. Hacker: Yes, without road frontage,

Mr. Eagan: When he brought it back to the Board, did this Board ever approve that as an amendment to that subdivision?

Mrs. Hacker: I do not believe we ever did. I believe that I would have had to sign off on that. Dick Poore and I worked long and hard on that, and it was supposed to be that there would only ever be this driveway, that heads toward the 219 and the one that we already made them move.

Mr. Eagan: Ironically the attorney upstairs representing the owners of the 6.93 also represented the homeowner that had to have the driveway moved.

Mrs. Hacker: Then that attorney knows what we went through to get that property up?

Mr. Eagan: It is so imperative that you, any of you go through your files and find anything where a decision went either way, concerning Eckis' subdivision, that road, the fellow from Ted's Hot Dogs, anything there that may even relate to the moving of that driveway, too. I think it's imperative that we all get in as a team here. We are not trying to hurt these people that bought this land, but we do have to right a wrong, somehow; and we all know that this subdivision has been a nightmare from day one.

Mr. Mendola: Not only did we not approve the driveway coming off the end of the 'T' we forbade it. We said, 'this is not allowed, you may not come off the end of the 'T'.

Mr. Eagan: That's the documentation that we need to see.

Mrs. Hacker: And my understanding is, that in the event that there was any other existing driveways, that needed to be placed, they could only be placed beyond the 'T' turnaround dimensions adjoining with another landowner, that would be the only way it could ever happen. And we have this pond that was in the way, that was why we approved this driveway, the only reason, because the Town wanted this pond for fire purposes, and if we let this person put the driveway in there, it would have cut into the pond area, so that was why the best case scenario was ' that driveway only.

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Mr. Mendola: And prior to the pond we would not let them come off the end of the 'T'.

Mr. Brox: I would like to point out that under Article 3 "General Provisions" the Board may adopt whatever application forms that it deems necessary and make such amendments as to said form as may be from time to time required. You can change them from time to time as you see fit. None of this has to go the Town Board, they're your applications for your subdivision review, make changes, send them to the Town Attorney and he would then file with.

Mrs. Hacker: In the interest of working together, is it recommended that we do send them to the Town Board?

Mr. Brox: Oh, definitely, you'd want to let them know what you're doing, but in order to make changes it doesn't require their approval, but you want to let them know what's going on.

Mrs. Hacker read a Planning Board letter of March 26, 2004 addressed to Mr. Eckis.

Mrs. Hacker: My fear is that when this went from the table to on site, maybe assumptions might have been made that it was a done deal, and if nothing had been filed, not a done deal.

Mr. Brox: Would there be anything in the Town Attorney's file from Mr. Perley's time to discuss this?

Mrs. Hacker asked that everyone review the file on the Boston Hills Subdivision, review the Tanglewood Subdivision Plat, the subdivision check-off lists and look at/ for Code book changes for further review and discussion.

Mrs. Hacker asked if there were any further business?

Mr. Downey: Just something to think about. With the problem that we are having now regarding the "T" is that in the future we may want to think about, that when have a problem like that or a situation, we make sure that it is clear what we want, we can do one of two things or even both: one is in the zoning maps, you could maybe stamp them, with building restrictions, whatever, so that someone who goes to buy those properties, from someone who is not forthright to the new purchasers about the restrictions that they are officially put on notice. The other thing is that in some cases, I've been told that they do deed restrictions, where they make for example in this case the other properties that weren't technically part of the subdivision, is they make it a requirement to file a deed, listing those properties

and saying that there are restrictions on assets, so once it's filed in Erie County Clerk's office, by law that's considered public notice, and that's somehow that we get around with it, but that way someone doesn't do any end around, or things get dropped and not completed by your Board, those things are out there so that people don't come back here and say "what happened?" as we try to piece the happenings together.

Discussion followed regarding how to avoid this type of situation in the future?

Chairman Hacker asked if there were any further business?

Mr. Bernas made a motion to adjourn at 8:53 P.M., seconded by Mr. Mendola and carried.

Respectfully submitted,

Timothy Kirst

Secretary

TK:tf