



Town of Hampden
Planning Board
Wednesday, May 10, 2023, 7:00 pm
Municipal Building Council Chambers
Minutes

In Attendance:

Planning Board

Richard Tinsman, Chair
Benjamin Dunham, Vice Chair
Amanda Day
Jacob Beaulier
Ryan Tribou
Dennis Marble
Monica Small (Alternate)

Staff

Clifton Iler, Town Planner
Amy Ryder, Economic Development Director

Public

Sara McCurdy
Jim McCurdy
Brent Marquis
John Higgins
Stephen Poll
Allison Poll
Darrell Ginn
Peter Maguire
Polina Bogatyreva
Jason Sharpe

Chair Tinsman called the meeting to order at 7:00 p.m. and verified that all attendees in-person and virtual could hear and see each other. In the absence of a regular member Chair Tinsman appointed Alternate Member Small to serve as a full voting member for the duration of the evening's meeting.

Chair Tinsman for a moment of silence by those present to commemorate the passing of Ivan McPike. Ivan served as a Town Councilor for many years and was the current chair. He was a graduate of Hampden Academy, a member of the School Board Member for 10 years, a member of the Chamber of Commerce, and a member of several other boards and committees.

1. Administrative:

- a. Minutes – April 12, 2023, Regular Meeting

Motion by Member Marble to approve the minutes of April 12, 2023, Regular Meeting; second by Member Tribou; motion carried 7/0/0 by roll call vote.

2. Old Business: NONE

3. New Business:

- a. Higgins Medical Marijuana – Public hearing and major site plan review for a proposed medical marijuana caregiver use located at 294 Old County Rd (Tax Map/Lot: 10-0-034). This property is located in the Residential B District.

Chair Tinsman went over the rules for public hearings, confirmed with Planner Iler that the required public hearing posting had been met, and then opened the public hearing at 7:04 p.m.

Applicant, John Higgins presented his project at 294 Old County Rd:

- Business will be within an existing structure on the property.
- Medical marijuana caregiver business has been open since 2016 at a smaller scale.
- Due to the increase in size, it is required to gain Planning Board approval.
- Everything will be inside the building or behind a fence.

Town Planner, Clifton Iler, explained that this project creates approximately 500 SF of marijuana canopy, equivalent to five caregivers. The increase in caregivers requires the applicant to submit a Major Site Plan with the town. The applicant has met all the requirements of the Marijuana Ordinance. The applicant has requested a waiver of the submission requirements under Major Site Plans, Section 4.1.5.1 of the Zoning Ordinance.

Interested Parties Questions/Concerns/Opposition:

Peter Maguire resides at 280 Old County Rd and has been living there for 10 years. Mr. Maguire is an abutter to the property at 294 Old County Rd and supports the approval of this project.

Planning Board Questions:

Member Marble asked if the applicant could explain what a medical marijuana caregiver is. Applicant, John Higgins explained that a medical marijuana caregiver is a person with a license to cultivate medical marijuana. The caregiver can make patient relations and transfer to any medical marijuana caregiver.

Chair Tinsman closed the public hearing at 7:14 p.m.

Member Beaulier asked what documents, plans, and design by a professional engineer have been completed for the building and the entire site. John Higgins explained that the structure has been in existence for roughly 60 years and all that has been done within the building is electrical installation, which has been inspected by the state.

Economic Development Director, Amy Ryder noted that this business has been open since 2016.

Motion by Member Marble based on the findings and information presented herein, move to approve the Major Site Plan for the medical marijuana caregiver use located at 294 Old

County Rd (Tax Map/Lot: 10-0-034), with a waiver to Section 4.1.5.1 – Major Site Plans prepared by a design professional registered in the state of Maine; seconded by Member Dunham; motion carried by 6/1/0 by roll call vote.

- b. Ellingwood Heights Subdivision Amendment – Public hearing for an amendment to an approved subdivision plan for the Ellingwood Heights Subdivision on Deer Hill Ln (Tax Map/Lot: 07-0-040; 07-0-091; 07-0-039-B; 07-A-006). These properties are located in the Rural District.

Chair Tinsman went over the rules for public hearings, confirmed with Planner Iler that the required public hearing posting had been met, and then opened the public hearing at 7:19 p.m.

Applicant, Brent Marquis who resides at 45 Deer Hill Ln is seeking Planning Board approval for the following requests:

- The removal of a 4.2-acre (Tax Map/Lot: 07-0-039-B) parcel purchased from the town on November 8, 2022, from the Ellingwood Heights Subdivision to merge with the applicant's current 159 acres outside of the subdivision at 45 Deer Hill Rd.
- To add a 4.74-acre parcel, from Tax Map/Lot 07-0-040 parcel, to merge with James and Jeanne McCurdy, owners of 21 Deer Hill Ln (Tax Map/Lot 07-A-006) which will then become part of the Ellingwood Heights Subdivision. McCurdy's will be purchasing the 4.74 acres from the Marquis.
- Convey an additional 3.5-foot strip of right-of-way land, spanning across the applicant's current 217.07-foot road frontage to the Town of Hampden, at no cost, thus increasing the total road frontage on Mr. Marquis's property to 227.18 FT.

Town Planner, Clifton Iler, began by explaining that the Ellingwood Heights Subdivision was approved by the Planning Board in September 1987. It has been amended twice, one of which took place in 1993 to add Lot 17. By adding Lot 17 it created the open space areas at the end of the Deer Hill Ln cul-de-sac one of which is the parcel that was sold to the applicant. The second amendment was in 1999 as the original Lot 2 was split twice into lots 2A and 2B to be considered buildable lots.

Planner Iler then explained that the Planning Board is required to consider three different proposals as part of this subdivision amendment. The three proposals will potentially be combined into one vote with three different considerations that will need to be made as part of the vote. Town staff and Planner Iler collectively reached out to the Town's legal counsel, due to all the moving parts of the requested amendment, concerning the process and procedure of doing so listed below:

- The Planning Board will need to remove the 4.2-acre parcel of open space from the Ellingwood Heights Subdivision that the applicant purchased from the town and absorb it into the existing 159-acre lot currently owned by the applicant.
- Next Planning Board will need to add the 4.74-acre triangular parcel located on the southern portion of the site to be absorbed into lot 6 of the Ellingwood Heights

Subdivision, which will be sold to Lot 6 property owners James and Jeanne McCurdy and redraw the lot lines.

- Lastly the Planning Board will need to extend the right-of-way conveyance of the subdivision to convey extra land that would be used in case of a future lot split.

Interested Parties Questions/Concerns/Opposition:

Resident Jason Sharpe, who resides at 29 Deer Hill Ln, sends his thoughts and prayers to the McPike family. Mr. Sharpe pointed out that the draft order states the subdivision is off the Back Winterport Rd. when in fact it is off Western Ave. As an abutter to the Marquis property, Mr. Sharpe had the following questions:

- If this application is approved does that mean that 45 Deer Hill Ln can be split into three parcels?
- Where does the cul-de-sac start and what constitutes a cul-de-sac?
- What kinds of homes can be built on the parcels Mr. Marquis is looking to split from his current parcel?
- What is the benefit of the 3.5 FT being conveyed to the town?
- What is the benefit of the removal of the open space from the subdivision?

Applicant, Brent Marquis explained that his road frontage is on the teardrop-shaped cul-de-sac in the subdivision. Extending the 3.5 FT right-of-way strip and conveying it to the town simplifies the process, avoiding asking the town for a variance. The Public Works director agreed that the conveyance of the 3.5 FT would be amendable to the town. Mr. Marquis explained he is not part of the subdivision and will be splitting his existing property into three lots, one of which will be his primary residence. The splitting of his property will benefit the town by adding more tax base and Mr. Marquis' financial flexibility. As far as what types of homes can be built on those properties will be up to the CEO of the town.

Planner Iler explained that the Town Council chose at the time of the sale not to retain the utility of the open space as part of the sale. The property becomes a standard buildable lot only apart from being removed from the subdivision by the Planning Board and the designation of the open space also removed.

Chair Tinsman asked Planner Iler if there is any indication as to why the open space requirement was a part of the approved subdivision plan. Planner Iler explained that once the Town gains ownership of a property the Town Council could do with it as they choose, and in this case, they elected to sell that property to the applicant for the purpose of their ownership, as was the determination by the Town's legal counsel.

Planner Iler stated what is being proposed and part of the reason for the conveyance is to allow the lot splits to be conducted on the sight. Under state subdivision law because the applicant has lived on the parcel to be split for more than five years and will remain there it will not trigger subdivision review. The only future development would be contingent on what is developed on the two lots split from the original lot of Mr. Marquis.

Planning Board Questions:

Member Small asked if the sale of the open space was done without a hearing and were the all the residents of the Ellingwood Subdivision notified about the sale before it happened. Planner Iler stated that it did go through the public hearing process and all abutters of the open space were notified, but not the entire subdivision. He also noted that when the Ellingwood Heights Subdivision was initially created it did not have any open space. It wasn't until Lot 17 was added in 1993 that open space was added to the subdivision.

Member Marble had the following questions:

- Are there covenants or other deed restrictions to parcels in the subdivision that do not exist in the parcels next to but not in the subdivision?
- If so, is there anything we should consider in that area?
- Clarification on the addition of the addition to the right of ways so that it can become road frontage.

Planner Iler stated that are no covenants or deed restrictions to parcels in the subdivision that do not exist in the parcels next to but not in the subdivision. Planner Iler explained that it is roughly a table's width (3.5 FT wide) and almost allegeable on the site plan which will be conveyed to the town. This is a formality so that the applicant can split the lot without applying for a variance. The potential of what can be seen in the future is two driveways at the end of the cul-de-sac. If there was going to be anything more than that it would have to come back through subdivision review.

Member Marble, with respect to the ability of landowners to appropriately do what they should be able to do with their land, expressed his concern with the flip-flopping in reference to open space.

Member Small asked if the selling of the open space in Ellingwood Heights sets a precedent for open space in other subdivisions throughout the community. Planner Iler stated that yes that some are due to state requirements, and some aren't.

Member Beaulier asked where the 3.5-foot width is coming from. Planner Iler explained that it is part of the applicant's current property. If approved by the Planning Board and recorded at the registry of deeds the Town Council will have to vote to accept the conveyance of that land based on the deed. Public Works Director, Victor Smith, is in support of taking on the extra right-of-way area.

Motion by Member Marble based on the discussion and finding of fact from the information provided herein moves to approve the Amendment to the Approved Ellingwood Heights Subdivision on Western Ave to include the following three items: Remove existing Lot 1 from the subdivision, which was open space; add Lot 3 into subdivision as part of Lot 6 and extend right-of-way conveyance to the town to provide necessary road frontage to allow the division of property into three lots; seconded by Member Small; motion carried by 7/0/0 by roll call vote.

- c. Ware Subdivision Amendment – Public hearing for an amendment to an approved subdivision plan for the Ware Subdivision on Back Winterport Rd (Tax Map/Lot: 06-0-010). This property is located in the Rural District.

Chair Tinsman confirmed with Planner Iler that the required public hearing posting had been met, and then opened the public hearing at 8:06 p.m.

Darrell Ginn, representing the applicant, presented the plan:

- Ware Subdivision approved in September 2018.
- Applicants Stephen and Allison Poll purchased Lot 2 of the Ware Subdivision in 2018.
- Stephen and Allison Poll would like to create three lots from Lot 2.
- The driveways have been installed and approved by the state.
- All three proposed lots have been soil tested.

Town Planner, Clifton Iler, this amendment falls outside of the state’s five-year window for re-subdivision under the state subdivision law. This means that the board will be following the Minor Subdivision amendment process specifically on Lot 2 without the consideration of lot 1 as part of this process. The subdivision of Lot 2 into three lots meet the dimensional standards and staff had no further concerns.

Chair Tinsman asked if the staff had any concerns in reference to the application. Planner Iler did speak to Mr. Ginn regarding the requested waiver which requires a letter from the well driller/hydrogeologist providing evidence of adequate groundwater supply for the individual wells. Since this is a mere lot split it doesn’t seem necessary to go through the well drilling process since nothing is being constructed at this time

Interested Parties Questions/Concerns/Opposition: None

Planning Board Questions:

Member Marble asked how many lots are currently on the road and whether the gold lines on the map showing boundaries will be a road or a right of way. Planner Iler explained that there are currently three, but if approved to be split it will be three. In reference to the gold boundary lines on the map, those are to indicate what is now completely part of Lot 1 and is access to that lot.

Member Beaulier is not in favor of allowing waivers as they are in the ordinance for a reason.

Chair Tinsman closed the public hearing at 8:16 p.m.

Motion by Member Beaulier based on the discussion moved to approve the Amendment to an Approved Ware Subddivision on Back Winterport Rd and to not grant the requested waiver; Seconded by Member Dunham; motion denied 3/4/0 by a roll call vote.

Motion by Member Day moved to approve the Amendment to an Approved Subdivision for the Ware Subdivision on Back Winterport Rd, subject to the conditions included below:

Waivers (requested):

§3.8.3.1.5 Potable Water Supply:

- a. If public water is available, a written statement from the Hampden Water District that there is adequate supply and pressure for the new lots, or
- b. If public water is not available, evidence of adequate groundwater supply and quality for individual private wells for each lot by a well driller or a hydrogeologist familiar with the area.

Seconded by Member Marble; motion carried by 6/1/0 by roll call vote.

4. Town Planner Report:

Planner Iler reminded Planning Board Members to attend the Planning Board Workshop scheduled for Tuesday, May 16, 2023, at 6:30 p.m. He will be presenting the Comprehensive Plan draft that he has been working on for the past year at that meeting. If members of the public are unable to attend the Planning Board Meeting the Comprehensive Plan draft will be presented to the Town Council on Monday, May 15, 2023, at 6:00 p.m.

Planner Iler announced that he will be slowly transitioning out of his role as Town Planner for the Town of Hampden. Planner Iler will remain as Town Planner for the foreseeable future in a remote capacity.

5. Planning Board Comment:

Chair Tinsman thanked Planner Iler for his service to the Town of Hampden over the past two years and congratulated him on his new job.

Member Beaulier thank Planner Iler for all the work he has done. As a new Planning Board Member Planner Iler has been a great help. Member Beaulier also sent his condolences to the McPike family.

Member Marble noted that Planner Iler has done good work for the Town of Hampden, and it has been noted and will be missed. Member Marble spoke about the time he served alongside Ivan McPike as a Town Councilor and how Ivan enjoyed being Mayor, he was very dedicated. Member Marble also expressed his condolences for Ivan's family.

6. Adjournment:

7. Motion by Member Dunham moved to adjourn the meeting at 8:32 p.m., seconded by Member Beaulier; the motion was carried by a roll call vote of 7/0/0 in favor.

Respectfully Submitted By,

Wanda Libbey, Administrative Asst.