



Town of Hampden

Planning Board

Wednesday June 14, 2017, 7:00 pm

Municipal Building Council Chambers

Minutes

In Attendance:

Planning Board

Gene Weldon, Chair
Peter Weatherbee
Michael Avery
Jim Davitt
Kelley Wiltbank
Tom Dorrity

Staff & Others

Karen Cullen, AICP, Town Planner
Myles Block, CEO

Jim Kiser
Tricia Carver
Michael Griffin

Chairman Weldon called the meeting to order at 7:00 pm.

1. Administrative

- a. Minutes of May 10, 2017 meeting: **Motion** by Member Weatherbee to approve as submitted; second by Member Davitt, carried 4/0/1.

2. Old Business: None

3. New Business

- a. Public Hearing, Preliminary subdivision plan: Kiser & Kiser for the Cushing Family Trust. Proposed 11 lot subdivision with a new cul-de-sac off Constitution Ave, with the reconfiguration of two existing lots on Constitution Ave, on a portion of parcel 06-0-041-A and on parcels 06-A-056 and 06-A-058. This is Phase 3 of the Colonial Heights development. Chairman Weldon opened the hearing at 7:01 pm.

Jim Kiser represented the applicant and presented the plan, his main points were:

- 11 new lots with a reconfiguration of two existing lots on Constitution to provide for the access road into the new lots
- New road is about 970 feet long ending in a cul-de-sac
- Extension of the road is restricted by a narrow entrance to the cul-de-sac from the remaining land, which has frontage on Mayo Road
- There is full sewer, water, and storm drain infrastructure
- All lots are readily buildable, but due to the clayey soil they are providing for foundation drains to tie into the stormwater drainage system
- The plans have been revised to satisfy staff on all but a few minor items.

There being no one else wishing to speak on the application, the hearing was closed at 7:05 pm.

Planner Cullen gave a brief summary of her report and noted that the Board had before them tonight the letter from Woodard and Curran, an email from Jim Kiser in response, and a map she prepared showing potential downstream impacts to help the Board understand one of Woodard & Curran's comments.

Discussion points:

- The DEP wetland permit has been issued.
- DEP does not require a stormwater permit for this subdivision since the amount of impervious surface (the road) is less than one acre; therefore the applicant is requesting a waiver to the requirements in the Subdivision Ordinance to allow conformance with the state requirements, rather than have two separate sets of stormwater standards to deal with.
- Other two waiver requests are for sidewalks and showing vegetation and trees over 12" diameter.
- Board was in receipt of the final report from Woodard & Curran; Jim Kiser's response is:
 - The map of drainage areas was provided showing existing grades;
 - One of the storm drain pipes was accidentally modeled as 12" instead of 15", it worked with that so installing 15" will obviously still handle the stormwater;
 - Regarding stormwater inspections required for the MS4 permit compliance, all the information needed by the town to add the components to the list (catch basins, outfalls, and open ditches) are on the plan;
 - Storm drain construction detail has been shown in response to DPW's earlier comments; perforated pipe is being installed along the north side of the road, and is not needed on the south side based on topography;
 - Building (foundation) elevations should be set by the builders; in the past when they are specified on subdivision plans they are ignored. When a house is built, if the owner doesn't mind having a sump pump to get the water up into the stormwater system, then the foundation can be set at any elevation.
- Will meet with Sean Currier (DPW) regarding the ditch detail to determine appropriate depth of the ditch.
- Regarding the sidewalk waiver request, there are no sidewalks in the other phases of the subdivision and it has not been a problem. Most traffic is slow and there are a lot of pedestrians using the roads daily. Requiring sidewalks here will impact DPW by requiring them to come out to plow the small section of sidewalk.
- Regarding the waiver request for showing vegetation and trees over 12" diameter, the site was harvested last year to avoid the potential impact on the breeding season of endangered bats that might be present in the area. In addition, saving trees on such small lots is impractical since the building activity impacts most of the area.

There were no other questions or discussion from the Board. Chairman Weldon said the Board would act on the waiver requests tonight and request the applicant work with staff to iron out any remaining issues prior to submitting the final plan for approval.

Motion by Member Weatherbee to grant the three waivers requested as detailed in the application materials, and to direct the applicant to work with staff to finalize the plans prior to submission for final plan approval; second by Member Davitt; carried 6/0/0.

- b. Public Hearing, Conditional Use: Tricia Carver for conversion of an existing single family house located at 11 Ballfield Road to a two-family dwelling, under the provisions of §3.7.6 of the Hampden Zoning Ordinance, in the Residential A district.

Chairman Weldon opened the hearing at 7:20 pm. Tricia Carver, the applicant and owner, presented the application. She submitted revised floor plans showing a total of four bedrooms, two in the main unit and two in the rental (secondary) unit. She noted:

- When the house was built, they finished the basement first and lived there while the second floor was finished, the basement unit got a certificate of occupancy at that time
- The second floor has also received a certificate of occupancy
- A 90 minute (fire) rated door was installed last weekend
- Jason Lundstrom, the fire inspector, was at the house yesterday and inspected the door and smoke/CO detection system and it all passed
- Her living situation has changed and in order to stay in this house in Hampden she needs rental income
- She has found a potential tenant, a teacher at Hermon High School, who will be a good fit for the apartment
- Noted the tenant will pass through the workshop area (used for storage) to enter her unit
- The door to the main house is on the opposite end of the building

There being no other speakers on the application, the hearing was closed at 7:24 pm.

CEO Myles Block noted the basement unit had received a conditional certificate of occupancy from Ben Johnson on Feb 14, 2013, and now the entire house has a full occupancy permit.

Clarification of the location of this property; it is behind (to the south of) the ballfield, accessed from the driveway right next to the third base outfield.

Planner Cullen noted the Board has a draft Order before them tonight. She noted this application was submitted prior to the effective date of the newly adopted accessory apartment regulations so is being processed and approved under the "old" language. She added this application also meets the standards of the new language, although it is not required to do so. She also noted the Board has a copy of an email from Jason Lundstrom regarding his inspection of the property.

Motion by Member Wiltbank to approve the conditional use for a two family conversion as submitted and as detailed in the Board Order, with the addition of another finding stating that the application also meets the requirements of the newly adopted zoning regulations pertaining to accessory apartments; second by Member Avery; carried 6/0/0.

- c. Amendment to Subdivision Approval: River View Heights (Perkins Drive), to remove the condition requiring Lot 3 to have a site plan with the building permit.

Mike Griffin, attorney for the buyers of the house that now occupies Lot 3 on the River View Heights subdivision (Perkins Drive), spoke on the request. He said when he was doing the title search, he found two notes on the subdivision plan approved in 2008 that have caused a problem for securing clear title to the property. The first, and a direct impact to his client, is note 11 on the plan which requires a “professionally designed and engineered site plan” for Lot 3 to be submitted at the time of application for a building permit. The second, for which he seeks clarification from the Board, is for a declaration of covenants to be recorded at the registry of deeds; that has never happened and he is asking the Board to say that’s okay. Mr. Griffin also showed the Board a plan showing the house was located far from the (Penobscot) river and would have no impact on the river.

Planner Cullen said the Board had before them tonight a package of materials from her research, including the June 7, 2017 letter from Attorney Griffin, the June 3 letter from CEO Block, a map of the subdivision showing Lot 3, an excerpt of the 2003 approved plan showing the notes (regarding note 1), an excerpt of the 2008 approved plan showing the notes (regarding both 1 and 11), the Planning Board minutes from October 8, 2008 highlighting the reason for note 11, and the copy of the covenants received by the Board May 22, 2003. She noted that the reason for note 11 had to do with concerns about the steep slopes on Lot 3. She also noted that the covenants had been briefly discussed in reply to an abutters question in 2003, and that since note 1 is on the plan one might assume it is a requirement that should be fulfilled; she added that towns do not enforce covenants and to a certain extent it is irrelevant if they ever get recorded or enforced by the developer or homeowners. She suggested the Board had two options with regard to note 1: state for the record that the Board is not requiring that covenants be recorded, or – the better choice – simply delete the note.

Jim Kiser, who was involved with this application in 2008, said the discussion regarding Lot 3 was that the house would be built on the plateau – he described the topography of the lot as a steep slope down from the road, then a plateau, then a steep slope down from there. He added the Board felt it was important to have some control over construction of the house due to the slope challenges. The house was built up near the road, and the septic system is down in the plateau area; it doesn’t appear to be a problem.

Motion by Member Avery to amend the River View Heights subdivision to remove note 11 regarding the site plan for Lot 3; second by Member Weatherbee.

CEO Block pointed out this motion did not address note 1. After discussion, Member Avery rescinded his motion; Member Weatherbee agreed.

Motion by Member Avery to that the subdivision plan for River View Heights approved in 2008 be amended as referenced in the document “Amendment of the River View Heights Subdivision Plan” submitted by Attorney Griffin as amended by staff tonight; second by Member Weatherbee; carried 6/0/0.

The Board signed the amended document and Attorney Griffin stated he would be filing it at the registry of deeds tomorrow morning. The document is attached and herein made a part of these minutes.

4. Ordinance Committee report: Planner Cullen noted that the Ordinance Committee met on June 16th and reviewed the proposed amendments to the definitions for transfer station, and voted unanimously to refer to the Planning Board for a public hearing which was scheduled for tonight, but due to our error the ad was not placed in the newspaper, so it will be at the July meeting. The committee also reviewed draft amendments being drafted for Article 3, primarily the dimensional table.
5. Staff report: None
6. Planning Board Comments: Discussion about Board member terms; Planner Cullen noted three members (Avery, Syversen, and Wiltbank) are due to expire at the end of 2017. She also noted there is a potential new member who will be before the Planning & Development Committee next week, for recommendation to Town Council for appointment to the vacant alternate seat.

The meeting was adjourned at 7:55 pm by motion of Member Davitt with second by Member Avery; motion carried 6/0/0.

Respectfully submitted by Karen Cullen, Town Planner

Materials reviewed or handed out at the meeting:

- Letter from Woodard & Curran dated June 7, 2017, regarding Colonial Heights Phase 3
- Email from Jim Kiser dated June 8, 2017 in response to above letter
- Map showing downstream impact for Colonial Heights Phase 3
- Draft Board Order for preliminary plan for Colonial Heights Phase 3
- Email from Jason Lundstrom dated June 13, 2017 regarding Carver two family conversion
- Letter from Michael Griffin dated June 7, 2017 regarding River View Heights subdivision (Perkins Drive)
- "Amendment of the River View Heights Subdivision Plan" document
- Letter dated June 3, 2017 from CEO Block regarding River View Heights subdivision
- Map from town GIS of River View Heights subdivision
- Excerpts of 2003 approved plan, River View Heights
- Excerpts of 2008 approved plan, River View Heights
- Planning Board minutes of October 8, 2008
- Declaration of Covenants and Restrictions for River View Heights, received May 22, 2003