

**TIVERTON PLANNING BOARD
MINUTES OF MEETING
May 7, 2013**

Chairman Stephen Hughes called the regular meeting of the Tiverton Planning Board to order at 7:05 P.M. at the Town Hall, 343 Highland Road. Members present were: Vice Chairman Stuart Hardy, Patricia Cote, Rosemary Eva, Carol Guimond, David Holmes, Peter Moniz and David Saurette. Board member Peter Corr was absent. Also in attendance were: the Planning Board's Clerk and Administrative Officer Kate Michaud, Director of Public Works Stephen Berlucchi, PE, consulting engineers Deirdre Paiva of Commonwealth Engineers and Consultants and the Planning Board's Solicitor Peter Ruggiero and his associate David Petrarca.

Mr. Hardy made a motion to take Item #4 out of order. Mr. Moniz seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

1. Dennis Talbot – 15 Tambourine Lane – Little Compton, RI 02837 & Abel Hart Commons, Inc. – 271 Stoney Hollow Road – Tiverton, RI 02878 – Discussion Regarding Pavement – N/S East Road, West of Lake Road – Old Farm Lane and Four Rod Way – R-80 Zoning District – Bliss Family Homestead – Nine (9) Lot Rural Residential Subdivision – Final Plan Approved August 8, 2006 This petition was heard after Item #4. Dennis Talbot and William Smith of Civil Engineering Concepts were present on behalf of the petition. Mr. Smith reviewed the history of the subdivision, which is located off of East Road and includes a small portion of Four Rod Way (a "paper" street). Mr. Smith noted that Four Rod Way provides frontage for several of the lots. He stated that the Four Rod Way area had been cleared and grubbed. Mr. Smith stated that there is a 600 +/- foot by 20 +/- foot section of Four Rod Way that was to be topped with pervious pavement. The applicant was seeking permission to change the specification from pervious pavement to gravel. Mr. Smith noted that the grade in this area exceeded 5%.

Ms. Eva asked if the turnaround area on the plan had been constructed. Mr. Smith replied that two (2) "hammerhead" turnarounds were planned, but had not been constructed. Ms. Eva stated that she had driven into the subdivision, and that the condition of the roadway was very poor and that it was very narrow. Mr. Talbot replied that the road is 20 feet wide, but that some grass might have grown in. Mr. Talbot stated that there is one house currently (plus the original homestead, which had been sold).

Mr. Talbot stated that he would like to complete the road work in the next 2 months. He added that he was waiting for a septic system design approval in order to construct the next house. Ms. Paiva stated that she had done some research on pervious pavement, and that it had many of the same issues as gravel when it was installed on slopes of 5% or 6%. She opined that sloped installations would clog, and that the surface would need to be vacuumed 4 times per year or it would end up being impervious just like regular pavement. Discussion ensued.

Ms. Eva asked if streetlights and street signs had been installed. Mr. Talbot replied in the negative, stating that the work would be done. Mr. Holmes expressed safety concerns, especially access for safety vehicles (i.e. fire trucks, ambulances). Mr. Talbot noted that road maintenance would be performed by the Homeowner's Association once it is formed. He added that there were no runoff problems currently, the road was not rutted and that any water on East Road was not coming from this subdivision. Mr. Talbot stated that he had constructed other roads in Town, and that there had never been a problem. He opined that the Board was trying to solve a problem that doesn't exist. Ms. Paiva opined that pavement would be the best scenario, and that there would be no functional difference between the gravel and pervious pavement. She stressed that the Homeowner's Association should be clear about maintenance requirements. Mr. Berlucchi stated that he would normally pave a road with a 6% grade, but added that the Town would not be maintaining this road and it was a small subdivision. Mr. Hardy expressed his preference to avoid using pavement when possible.

Mr. Hardy made a motion to allow for a gravel roadway, instead of pervious pavement, on the specified section of Four Rod Way. Ms. Cote seconded the motion. Mr. Holmes stated his concern regarding maintenance. Ms. Eva stated that she was concern with access by safety vehicles. Mr. Saurette stated that when the subdivision was approved, the developer accepted the condition of a pervious pavement requirement. The Chairman noted Mr. Talbot's favorable reputation as a developer.

Mr. Hardy restated his motion, adding that it must be clear that the Homeowner's Association is and will be responsible for maintenance. Ms. Cote seconded the restated motion. The motion passed 6-2. Ms. Cote, Ms. Guimond, Mr. Hardy, Mr. Homes, Mr. Hughes and Mr. Moniz voted in favor of the motion. Ms. Eva and Mr. Saurette were opposed.

2. Harkins Stafford Pond, LLC – c/o Harkins Development – 1907 East Main Road – Portsmouth, RI 02871 – Sixteen (16) Lot Major Subdivision (Roads Required) – Rural Residential Development – Preliminary Plan – Re-Advertised and Re-Noticed – Plat 216 / Lot 106 (Former: Map 4-9 / Block 113 / Card 103) – N/S Bulgarmarsh Road, West of Stafford Road – S/S Stafford Pond – R-60 Zoning District – Stafford Pond Watershed Protection Overlay District – Stafford View Farm (Time Clock Started 3/27/2012) (Time Clock = 06/15/2013) Owner / applicant Christopher Harkins of Harkins Stafford Pond, LLC, engineer William Smith of Civil Engineering Concepts and attorney Jeremiah Leary were present on behalf of the petition. The Chairman asked the applicant to review the development's history and progress. Mr. Leary stated that a two phase project was proposed, with the westernmost roadway being Phase 1 and the easternmost roadway being Phase 2. Mr. Leary reviewed the proposed plan, including the lot layout and open space configuration. He noted that the applicant had met with the Administrative Officer, Police Chief and Fire Chief regarding fire hydrants and streetlights. A letter from North Tiverton Fire District regarding water supply was provided, along with a Fire Department approval of the proposed street names. Mr. Leary stated that a letter approving the gas line crossing had been submitted, and that the proposed access to Stafford Pond had been removed. He added that the Open Space areas would remain natural, and would be the responsibility of the Homeowner's Association. Mr. Leary also noted that the sidewalk area along the Bulgarmarsh Road frontage had been added at the Planning Board's request.

Mr. Smith briefly discussed the sidewalk, noting that he was trying to coordinate between RIDEM (RI Department of Environmental Management) and RIDOT (RI Department of Transportation). Mr. Smith noted that RIDEM had asked for a RIDOT endorsement of the sidewalk application (Bulgarmarsh Road / Route 177 is a State road). Mr. Smith stated that RIDOT had requested a letter from the Town accepting maintenance responsibilities for the sidewalk. He noted that part of the sidewalk would be on RIDOT property and part would be on land to be conveyed to the Town. A concrete sidewalk was proposed. Mr. Berlucchi stated that he did not find this to be a problem.

Mr. Leary stated that due to the subdivision's proximity to Stafford Pond, a public drinking water supply, the RIDEM permitting process had been very difficult. He stated that the applicant was waiting for approval of the Freshwater Wetlands permit, after which the Subdivision Suitability would be issued. Mr. Smith stated that he had spoken with Alisa Richardson of RIDEM that day, and that there was concern with the phosphorous levels reaching the Pond. Mr. Smith stated that the adjustments to the plan were made, and that he expected to receive written confirmation that everything is satisfactory (with exception of the RIDOT sign-off on the sidewalk) within a couple of weeks. Mr. Hardy asked why a Freshwater Wetlands permit was needed. Mr. Smith replied that it was triggered by the culvert running underneath Bulgarmarsh Road, and because the stormwater runoff for the subdivision would drain to the wetlands and eventually to the Pond.

Mr. Smith stated that he had received a landscape plan for the subdivision this past Friday. He handed copies out to the Board members. Mr. Smith reviewed the types of proposed OWTS (Onsite Wastewater Treatment Systems), which would be a mix of conventional and advanced technology. He also noted that the applicant was requesting a waiver from the Planning Board with regard to roadway width. The applicant was requesting a 20 feet wide roadway (plus 2 one-foot cape cod berms, for a total of 22 feet) instead of the standard 22-foot width

(plus 2 one-foot cape cod berms, for a total of 24 feet). Mr. Leary noted that the applicant was also waiting for approval of a RIDOT PAP (Physical Alteration Permit).

Mr. Smith stated that during the surveying of the property, an encroachment was discovered on the east side of the parcel. A fence, dumpster and cleared area are included in the encroachment, totaling approximately 12,000 square feet (including some area within the gas line easement). Mr. Leary stated that the applicant intended to perform an Administrative Subdivision to transfer this area to the abutter.

Mr. Saurette noted that there was no landscaping on the landscape plan. He stated that it was identical to a sheet that had already been distributed. Ms. Paiva stated that the existing and proposed tree line was not depicted. Also missing was a depiction of trees to be preserved. She opined that the plan submitted did not meet the criteria of a landscape plan. Mr. Leary asked the Board to determine what is needed. He noted that the applicant had not wished to submit a landscape plan, but was required to by the Board.

Ms. Paiva reviewed her review letter, dated May 7, 2013. She noted that streetlights need to be moved away from the water line, and that she was not in favor of a direct connection between roof leaders and catch basins. Mr. Berlucchi stated that he did not object to the connection, as long as it was documented, and inspection ports and backflow preventers were installed.

Mr. Saurette listed the items that he would like to see on a landscape plan, including:

- Well marked limits of disturbance,
- Significant trees identified,
- Pond plantings identified (if needed – at the developer’s discretion), and
- A note regarding the conservation plan for the Open Space areas.

Mr. Moniz stated that he would like to see street trees within the street rights of way. Mr. Hardy agreed. Mr. Smith stated that there were no plantings proposed within or around the detention ponds. Mr. Saurette suggested that the applicant might wish to consider some plantings to improve the appearance of the entrance area. The Chairman asked if the Town would need to maintain the swale within the RIDOT right of way. He stated that this should be confirmed with DPW. Mr. Smith stated that the swale would not pick up stormwater from the development, but from the sidewalk and the roadway. (The swale would be located between the proposed sidewalk and Bulgarmarsh Road.)

It was noted that the Board had not yet voted formally on the waiver to allow for a reduced roadway width. Mr. Moniz made a motion to allow a paved roadway width of twenty (20) feet, plus two (2) one-foot Cape Cod berms (22 feet total). Mr. Hardy seconded the motion. The motion passed 7-0-1. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. Ms. Eva abstained. Ms. Michaud stated that the waiver must be cited on future plan sets.

Mr. Saurette made a motion to set the landscape plan requirements in accordance with his earlier comments (see listing above). Mr. Hardy seconded the motion. Ms. Paiva stated that the applicant should check the fencing requirements for detention ponds. The motion passed 7-1. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes and Mr. Saurette voted in favor of the motion. Mr. Moniz was opposed. He expressed a desire to look more at the “big picture”.

The Chairman noted that the time clock was set to expire on June 15, 2013. He asked the applicant if he would be willing to extend it to August 15, 2013. He also noted that this was a Public Hearing, and invited questions or comments from the audience. Sally Black stated that she was glad that the applicant had decided to resolve the property line / encroachment issue so well. No more questions or comments were heard. Mr. Leary agreed to extend the time clock to August 15, 2013. Mr. Hardy made a motion to continue this item to June 4, 2013. Mr. Saurette seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. Ms. Michaud stated that she would note the RIDEM permit status on the agenda.

3. Joseph Ruggiero – 1 Nyatt Point – Barrington, RI 02806 – Twelve (12) Lot Major Subdivision (Road Required) – Rural Residential Development – Final Plan Review – W/S North Brayton Road, North of Leger Lane – R-60 Zoning District – Plat 219 / Lot 144 – Abigail Estates Continued from March 19, 2013 – (Time Clock = 7/12/2013) – Preliminary Plan Approved May 3, 2011

Engineer Daniel Aguiar of Sitec and applicant Joseph Ruggiero were present on behalf of the petition. Mr. Aguiar distributed 11” x 17” copies of the plan. He stated that a stamped landscape plan had been received. Changes to the plan were reviewed, including:

- The addition of a “no cut zone”, marked with iron pipe monuments,
- A suitable / unsuitable land area table, and
- Corrected water main locations.

Mr. Aguiar added that the draft legal document had been submitted by attorney Frank Corso and that he was working on completing the updated cost estimate. He noted that the revised estimate would include the additional bounds required.

Ms. Guimond asked if Lyne Road would connect to the subdivision. Mr. Aguiar replied in the affirmative. Ms. Eva inquired about streetlights. Mr. Aguiar replied that the locations had been approved by Mr. Berlucchi and Police Chief Blakey, and that Detail Sheet #1 (Sheet #13) included a detail of the light.

The Chairman reviewed the outstanding items, including finalizing the legal documents and setting surety. Ms. Michaud asked if the Board was satisfied with the location of bounds as depicted. The consensus of the Board was affirmative.

Ms. Eva noted that Sheet 5 of 15 did not contain a match line, and did not show the extent of the back portion of the parcel. The sheet only depicted as far as the wetlands. Mr. Aguiar replied that the entire parcel was depicted on Sheet 1. The Chairman polled the Board regarding the adequacy of the depiction of the lot in its entirety. Mr. Saurette had no opinion. Ms. Eva did not think it was adequately depicted. The rest of the Board members indicated that they were satisfied with the depiction.

Mr. Ruggiero noted that in the draft legal documents, the Open Space restrictions come to the Town. This would mean that the Town could enforce any infringements on the Open Space. He asked the Board if that was acceptable. The consensus was affirmative. Mr. Ruggiero noted that there was a drainage easement to the Town. Mr. Berlucchi indicated that this was acceptable.

Mr. Holmes made a motion to continue this item to the June 4, 2013 Planning Board meeting. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

4. Tiverton Public Library (applicant) – Tiverton Library Realty, Inc. (owner) – c/o Barbara R. Donnelly – 238 Highland Road – Tiverton, RI 02878 – Site Plan & Design Plan Review – S/S Bulgarmarsh Road; E/S Roosevelt Avenue – General Commercial (GC) & R-80 Zoning District – Small Portion within Stafford Pond Watershed Protection Overlay District – Plat 513 / Lots 127 & 128 – Zoning Ordinance Art. XX – Development Plan Review – New Construction of <24,000 SF Building – Continued from March 19, 2013 – (Time Clock = 65 Days = 5/18/2013)

This item was taken out of order (before Item #1). No one was present on behalf of the petition. An email was received from Leon Hoyer requesting a continuance to the June 4 meeting and also requesting a waiver of the time clock. Engineer William Smith of Civil Engineering Concepts, who was present for another petition, stated that RIDEM (RI Department of Environmental Management) had directed the applicant to apply for a Freshwater Wetlands permit. He stated that the application had been filed, and that a revised set of plans would be submitted to the Planning Board.

Ms. Eva made a motion to waive the time clock. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

Ms. Cote made a motion to continue this item to the June 4, 2013 meeting. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion.

5. Town Planner & Administrative Officer

A. Administrative Officer's Report Ms. Michaud's April report had been distributed.

B. Town Planner Items Ms. Michaud gave a very brief update on these two items:

1. **Update: Challenge Grant Project**
2. **Update: Stone Bridge Abutment Repairs**

C. Miscellaneous

1. **Watershed Protection Overlay District** Mr. Hardy stated that he would contact the Conservation Commission regarding scheduling of a joint workshop.

5. Tiverton Planning Board

A. Scheduling Only – Site Walk / Tiverton Crossings The Planning Board members indicated that they would be available on either June 1 or June 8 (Saturdays) at 9:00 AM for a site walk. These dates would be relayed to the Town Council for scheduling.

B. Comprehensive Community Plan Update – Select Subcommittee / Chair The Board members discussed membership for the committee that would work on the required five-year update of the Comprehensive Community Plan. Mr. Saurette and Mr. Hardy volunteered to be subcommittee members. [Note: The Administrative Officer and Chairman are already members of the subcommittee in accordance with a Town Council resolution.] Mr. Moniz stated that he would contribute with regard to trees, streets and the proposed bike path. The Board members indicated, by consensus, that they would prefer to have the subcommittee chaired by the Administrative Officer.

C. Correspondence A memorandum from Statewide Planning regarding updating the Comprehensive Community Plan was distributed.

D. Miscellaneous

1. At the request of Ms. Eva, Mr. Ruggiero reviewed the rules regarding "ex parte" communications and discussion of active petitions. Mr. Ruggiero stated that ex parte communications (communications outside of the meeting setting) should not occur, and that a petition should only be discussing in a meeting session when the item is before the Board. He stated that if asked by someone outside of a meeting session, facts could be provided. However, no opinions should be given. He noted that an active petition begins with the submission of an application.

2. Ms. Michaud noted that Site Ready Materials and Recycling had filed an appeal, which would likely be heard by the Planning Board of Appeals (Zoning Board) in July. Mr. Ruggiero stated that he would represent the Planning Board. Ms. Eva requested a copy of the final recorded decision notice.

E. Approval of Minutes:

March 19, 2013 Mr. Saurette made a motion to approve the minutes. Mr. Hughes seconded the motion. The motion passed 6-0-2. Mr. Hughes, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. Ms. Cote and Mr. Hardy abstained.

April 2, 2013 These minutes were not ready.

April 29, 2013 These minutes were not ready.

F. Adjournment: Mr. Holmes made a motion to adjourn. The motion was seconded by Ms. Guimond. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes, Mr. Moniz and Mr. Saurette voted in favor of the motion. The meeting adjourned at 9:43 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____

Approval Date: July 23, 2013

Kate Michaud, Clerk