

**Holliston Planning Board
Meeting Minutes of September 20, 2012**

In Attendance: Chairman Parashar Patel (arrived at 9:05 p.m.), Vice Chairman Geoffrey Zeamer, Jonathan Loya, Jack Donovan and Warren Chamberlain

Call to Order: The Vice Chairman called the meeting to order at 7:30 p.m. in Room 105 of the Town Hall, 703 Washington Street.

**General Business:
Approval of Minutes**

On a motion by Mr. Donovan, seconded by Mr. Chamberlain, the Board voted unanimously to approve the minutes of July 26, 2012 as drafted.

On a motion by Mr. Chamberlain, seconded by Mr. Loya, the Board voted to approve the minutes of August 17, 2012 as drafted. Mr. Donovan abstained.

Subdivision Extensions

1. Indian Trails Estates – Based on a written request dated July 23rd from Project Manager Don Seaberg, PE of Benchmark Engineering, the Board agreed to grant an extension to the provisions of the Covenant requiring the completion of the roadway and required improvements by 7/27/12. Mr. Donovan made a motion to extend the deadline until June 30, 2013. The motion was seconded by Mr. Chamberlain with all in favor.
2. Constitution Village - Based on a written request dated July 23rd from Project Manager Don Seaberg, PE of Benchmark Engineering, the Board agreed to grant an extension to the provisions of the Covenant requiring the completion of the roadway and required improvements by 7/27/12. Mr. Donovan made a motion to extend the deadline until June 30, 2013. The motion was seconded by Mr. Chamberlain with all in favor. Ms. Sherman noted that Westcott Site Services has observed ongoing site work in his inspection report of August 31, 2012 (#72) and the Conservation Commission is currently reviewing several Notices of Intent for lots on Old Cart Path.
3. Highlands at Holliston – The Board granted a temporary extension to the completion deadline for Highlands at Holliston pending review of the proposed surety for the various project phases. Mr. Donovan made a motion to grant the extension until 11/30/12. Mr. Chamberlain seconded with all in favor.

Courtland Pines Surety and Lot Releases

1. Surety Amount – On a motion by Mr. Donovan, seconded by Mr. Chamberlain, the Board voted to establish a surety amount of \$40,814 based on the Form E prepared by the manager/owner Robert Girvin and approved by the Board's Inspector, Ali Parand, PE of AP Associates.
2. Surety Agreement - The Board endorsed a Cash Agreement for the surety along with Robert Girvin, Manager. The Agreement reflects the construction deadline of August 2017 per the provisions of the "Permit Extension" legislation passed in August by the legislature.
3. Lot Releases - The Board endorsed a Lot Release form for the 6 lots in the subdivision on a motion by Mr. Donovan, seconded by Mr. Chamberlain.

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**Administrative Site Plan Review
'Lil Folk Farm, 1070 Washington Street**

Nancy Dubin, Owner was present to discuss plans to enclose an existing outdoor riding arena in order to provide additional year-round programming and to provide additional equipment storage and bathroom facilities. She also noted the receipt of a USDA grant for a manure composting facility and some additional site drainage work.

Mrs. Dubin presented a series of boards, showing the existing and proposed building footprints as well as gravel access roads and parking. She also provided an elevation sketch of the riding facility and manure composting area. Several questions were asked about the composting facility and building/structure setbacks.

Mr. Donovan made a motion to approve the filing with no special conditions, allowing a waiver of the informational requirements of Section 7.3 of the Planning Board Regulations and no application fee. Mr. Chamberlain seconded with all in favor.

**Special Permit and Site Plan Review Public Hearing
Rocky Road RT, 2016 Washington Street**

The Vice Chairman opened the public hearing at 8:35 p.m. Present for the applicant was Brian McCann of Rocky Road RT as well as Atty. Peter Barbieri of Fletcher Tilton PC.

Atty. Barbieri provided a detailed overview of the plan revisions dated September 10, 2012 including signage and landscaping. He noted receipt of comments from Westcott Site Services dated September 13, 2012 regarding the proposed lighting plan. No one spoke from the public.

The members discussed a draft Certificate of Action dated September 20th, including Administrative Record, Project Description, Findings of Fact, and Conditions of Approval. In particular, proposed Special Conditions 10 – 16 were discussed. Changes were proposed to proposed hours of operation, extended the closing hours to 11:00 p.m. Additional conditions addressing a final lighting plan and construction of a portion of the common driveway were formulated.

Mr. Donovan made a motion to close the public hearing. Mr. Chamberlain seconded with all in favor.

Mr. Donovan made a motion to approve the Special permit and Site Plan Review application based upon the draft Certificate of Action as amended through discussion. Mr. Loya seconded with all in favor.

Executive Session:

On a roll call vote, the Board voted unanimously to enter into Executive Session under the provisions of MGL, c. 39, s. 23B (#3) to discuss legal strategy with regard to Anna Lambert v. Planning Board on a motion by Mr. Zeamer and seconded by Mr. Chamberlain. The Chairman announced that the Board would return to open session. Accompanying the Board in their discussion were Atty. David Mack of O'Connor, Carnathan and Mack LLC (Special Town

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Counsel) and Town Administrator Paul LeBeau. The Board returned to open session on a unanimous roll call vote on a motion by Mr. Zeamer, seconded by Mr. Chamberlain.

Approval Not Required (ANR) Subdivision Plan

Lambert, Underwood Street

On a motion by Mr. Zeamer, seconded by Mr. Chamberlain with all in favor, the Board voted unanimously to rescind their vote of May 31, 2012 and endorse the ANR plan prepared for Anna Lambert by GLM Engineering Consultants, Inc. dated March 15, 2012 (revised May 11, 2012). Members discussed their positions with regard to this action, noting that the endorsement is the result of the proposed settlement agreement including a proposed 4-acre open space covenant as well as release and dismissal of the appeal. The Chairman added that although he had voted in favor of endorsement in May on the advice of Atty. Bobrowski because of prevailing case law, the action of the Zoning Board in January 2012 granting a dimensional variance that was significantly more than de minimus in nature after the Planning Board had issued a recommendation against the proposal was worth calling on the carpet. He noted that the Board has spent over \$4,600 on the litigation to date. Mr. Donovan added that the Zoning Board's action sets a dangerous precedent. Atty. Mack reminded the Board to hold the endorsed mylar until receipt of the dismissal and release of individual members is filed.

**Site Plan Review and Special Permit Public Hearing
Grasshopper Tree, 67 Jeffrey Ave.**

The Chairman opened the public hearing at 9:25 and waived the reading of the hearing notice. Mr. Zeamer identified a potential conflict of interest under the provisions of the Mass. General Law as he has an interest in an abutting property and he sat in the audience. Present were Jed Barclay from Grasshopper Tree and Claymore Enterprises, LLC (Applicant and Owner) as well as Joyce Hastings, PLS of GLM Engineering Consultants, Inc. and Atty. Peter Barbieri of Fletcher Tilton PC.

Ms. Sherman and Ms. Hastings provided an overview of the request, noting a memorandum from Inspector of Buildings Peter Tartakoff dated September 20th bringing "new" issues to the attention of the Board including material storage, site alterations, parking, stockpiling/composting and signage, and noting outstanding non-compliance with the 2005 Special Permit plans and conditions. Ms. Hastings noted that the plan primarily calls out existing conditions, especially with regard to outdoor storage of materials and equipment. She noted location of some new features including gravel access drives and material storage along the western property line. She also noted that recent work on the primary material storage pile has resulted in its height compliance (15 feet). She also noted stacked employee parking at the rear of the building.

Mr. Donovan asked a series of questions regarding the site operations, including the noted composting, locations of palletized materials, hours of operations, handling of tree stumps and unsuitable materials, and location of storage bins over the drainage easement. Ms. Hastings and Atty. Barbieri agreed to review the drainage easement and take steps on the DEP "Conditionally Exempt" filing under 310 CMR 16.05(4) and provide the Board with information. Mr. Barclay clarified that the operation hours are currently 6 am to 6 p.m. with fluctuations during snow and ice events. He also noted that the main stockpile is composed of screened and re-used materials

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from jobs that are ultimately re-used and that unsuitable materials are placed in dumpsters at a significant expense.

The Chairman asked for clarification of proposed new operational features. Ms. Hastings noted the addition of gravel cart paths, pile relocation & height, slope grading and proposed tree removal along the western boundary. Mr. Donovan asked how long Grasshopper has been doing business from the site. Mr. Barclay stated approximately 10 years. The Chairman asked for a clarification of crushing and screening operations. Ms. Hastings stated that there is a screener on site but not a crusher. Mr. Donovan asked for a list of all aspects of the operation and a clarification of fence locations. He also expressed an interest in conducting a site visit.

The Chairman opened the floor to the public. Raising concerns were Atty. Scott Fenton from Bowditch & Dewey, representing Cold Chain Technologies along with Larry Gordon, President of Cold Chain Technologies located on Everett Street, Rolf Briggs of Tree Specialists located at 140 Washington Street, and Geoffrey Zeamer of VAB Realty Trust with an interest in 194 Lowland Street. The following issues were raised: 1. non-compliance with prior Special Permit, 2. significant odors from moving and mixing the stockpile, 3. the recent steep slope cut shown on pictures provided, 4. the occasional stormwater pumping to the adjacent pond at 194 Lowland Street, 5. material storage killing the existing trees/vegetated screening, and 6. trespass to handle materials stored close to the property line. Mr. Fenton asked for a determination of whether the storage bins are considered to be structures. He also asked the Board to consider the other issues raised in his correspondence dated September 17th.

The Chairman asked for a comparison of changes from 2005 to present along with proposed remediation of items needing immediate attention per the Building Inspector's letter. He asked for a reply by Tuesday the 25th. All were in agreement. Mr. Donovan suggested a site management plan with checklists for monitoring key items.

Mr. Donovan made a motion to continue the public hearing until October 4th at 8 p.m. Mr. Chamberlain seconded with all in favor.

Adjournment - The meeting was adjourned at 10:25 p.m. on a motion made and duly seconded. The next meeting is scheduled for October 4 at 7:30 p.m.

Respectfully submitted,

Karen L. Sherman, Town Planner