

January 20, 2015 – FINAL MINUTES  
Regular session, and Public Hearing for 57-75 Hartwell Rd/16 Beacon St cluster subdivision and special permit

**BEDFORD PLANNING BOARD**  
**Town Hall—2<sup>nd</sup> Floor Conference Room**  
**Regular Session Minutes**  
**January 20, 2015**

MEMBERS PRESENT: Shawn Hanegan Chair, Amy Lloyd, Clerk  
Jeffrey Cohen, Sandra Hackman and Lisa Mustapich

MEMBERS ABSENT: None

STAFF PRESENT: Glenn Garber, Planning Director; Catherine Perry, Assistant Planner

STAFF ABSENT: Cathy Silvestrone, Planning A.A.

OTHERS PRESENT: See Attached

Shawn Hanegan, Chair convened the Planning Board meeting at 7:30 PM

**Emergency Evacuation notice** read by Amy Lloyd, Clerk

*Note: All meeting submittals are available for review in the Planning Office.*

**DEVELOPMENT PERMITTING SESSION:**

Public Hearing: 57-75 Hartwell Road and 16 Beacon Street – definitive cluster subdivision and special permit

The public hearing was opened at 7:35 pm. The proposal is a 5-lot residential cluster development on a parcel of approximately 4.14 acres, under Section 8 of the Bedford Zoning Bylaw and the Planning Board's Subdivision Rules and Regulations. The applicants are owners Bonus Varghese and Reena Thorpatharu.

The following application materials were submitted:

- Cover letter from Pamela Brown, dated December 23, 2014
- Form C – Application for approval of definitive plan, dated December 23, 2014
- Special permit application form
- Form K – street name (proposing Alpha Lane)
- Plan set consisting of 8 sheets, entitled Definitive Subdivision, Cluster Development, 57 and 75 Hartwell Road, Bedford, Massachusetts, dated December 22, 2014, prepared by Karlis Skulte, Civil/Professional Engineer of EBI Consulting, Burlington
- Memorandum of Supporting Data from EBI Consulting, dated December 22, 2014

Other materials available to the Board were:

- Memorandum dated January 16, 2015 from Assistant Planner Catherine Perry discussing the proposed development and attaching photographs of the site from surrounding streets
- Memoranda and email comments from other Town staff

- Letter and email dated December 30, 2014 from John Stella, abutting resident at 20 Washington Street, attaching photographs of recent flood conditions near back yards of 20 and 24 Washington Street
- Minutes of Planning Board's discussion of preliminary cluster subdivision plan on July 22, 2014
- Two earlier conceptual plans (unstamped) dated July 11, 2012, supplied by the applicant.

Atty. Pamela Brown presented for the applicant. Among the points she emphasized were the following: The existing Sullivan house at 57 Hartwell, built around 1900, would not be demolished if dimensional relief for non-conforming setbacks could be obtained from the Zoning Board of Appeals; otherwise, an application under the demolition delay by law would be made. The roadway, since preliminary plan review, has been narrowed from 24' to 22' in width and the 100' diameter cul-de-sac terminus has been eliminated in favor of a tee back-up strip on one side. The 50 foot perimeter no-build rule [which now applies only to principal structures] has been taken into account in the lot layout. Close attention has been paid to stormwater management, given flood patterns in the vicinity.

Planning Board members Jeffrey Cohen and Shawn Hanegan questioned whether the alternative conceptual plans from 2012 satisfy the Board's request at the preliminary meeting for a comparison of conventional versus cluster approaches; these plans show nearly as high a density with four lots but there are dimensional violations involved and they are therefore invalid as conventional plans. Catherine Perry, Assistant Planner, expressed her opinion that three conventional lots might be a more accurate estimate.

Planning Board member Amy Lloyd asked how much common open space was provided and the civil engineer for the applicant, Mr. Karlis Skulte, replied 44%, including wetlands. He added that the upland (not wetland) area of common open space exceeds the minimum requirement. Catherine Perry pointed out that while the calculations appear correct, a portion of the upland area will be inaccessible to pedestrians, being separated off by the wetlands. Conservation Administrator Elizabeth Bagdonas indicated that a segment of wetlands delineation in the northwest corner of the property needs to be confirmed by the Conservation Commission before it can be relied upon; it has not yet been submitted. Ms. Lloyd also asked if the 40' frontage for common land has to be upland. Ms. Perry said that its nature is not specified in the bylaw but the intent is probably that it should be suitable for access including by potential maintenance vehicles. Ms. Lloyd asked about intended house sizes; Ms. Brown indicated they are likely to be around 3,500 SF whereas if there were fewer lots, they might be 4,500 SF. Ms. Lloyd further asked why there is a need for a swale on the east side of the property as the natural land form would allow water to drain away from here. The engineer stated that it is to help with drainage if development of the house lots raises the land.

PB member Sandra Hackman asked if there could be detention added to on-site stormwater management, to give some relief to adjacent homeowners. The engineer replied that the infiltration system had a degree of in-ground detention capacity and that this could be up-sized if necessary. Ms. Brown stated that the system shown is designed for the 25 year storm but they will upgrade it to meet the 100 year storm. Jeffrey Cohen inquired about seasonal vertical separation to groundwater depth and the engineer replied that it was 2' at highest levels annually.

Mr. Cohen further inquired as to whether they could meet DEP and town standards for drainage at seasonal high water table, and Mr. Hanegan asked if the applicant would conduct the soil tests in advance rather than during construction. The applicant responded that the soil type information gave them some input for the model, but that they will conduct the tests. If the current design does not work, the alternatives will be to relocate the system or do an open detention pond, but that might conflict with other site features such as paths. Mr. Cohen wanted to be sure it would work prior to approval.

Mr. Cohen observed that the proposed walking trail is likely to be waterlogged at times and is somewhat overgrown; he questioned how much it would be used and noted that the Conservation Administrator had some doubts about its need/ benefit.

Chair Shawn Hanegan asked Ms. Brown what would happen if the Town didn't accept the conservation land, and she replied that a regular conservation deed restriction would be placed on it, under the ownership and care of another owner - if necessary the homeowner's association.

Mr. Cohen also questioned the adequacy of the landscape buffer, and asked how the fence will fit with neighbors' boundary treatments. Ms. Brown said they would look into adding further vegetation to the buffer and making it wider, and work with neighbors to resolve preferred treatment of boundaries.

PB member Lisa Mustapich asked for more information on the house at 57 Hartwell and what zoning relief would have to be obtained for it. Ms. Brown replied that the front setback and one side yard would be involved. Ms. Perry added that she believes a hardship variance would be needed, based on a written opinion from town counsel last year concerning alterations to non-conforming lots and on a subsequent telephone discussion of this site. She also felt that the relief sought would need to include the 50' perimeter no-build rule that applies to cluster developments. Ms. Brown was asked if a demolition permit had been sought and responded that it had not. Ms. Lloyd asked if the 57 Hartwell house could be moved and Ms. Brown responded that they have not considered this; technically it probably could but doing so is an expensive proposition.

Mr. Hanegan asked about the possibility of a neighborhood meeting between the applicant team and the residents. Ms. Brown stated that she had been trying to do that for months without success, but there was renewed discussion of late of holding such a meeting. Ms. Lloyd questioned why some lots were in excess of the 15,000 SF minimum required for cluster lots in this district; keeping them at 15K would allow more open space to be preserved. Ms. Brown said they would look into that idea.

The Chair invited the public to speak. Atty. Phillip Lombardo said he was representing the following neighborhood households: Bard; Harrington; Jeffrey and Sabbag. The group was of the strong opinion that a reduction of one lot would provide a more reasonable development and be more acceptable to the neighbors. Although the former greenbelt rule had been changed, the neighbors believed a better landscape buffer than this was intended. They were still skeptical about the proposed stormwater management system. They suggested low-level streetlights to avoid causing a nuisance to abutters.

Neighbor Ms. Boo Topeka of 28 Washington Street asked if there was a drainage tie-in to Elm Brook and the engineer said that was not the case. She expressed concern about the potential for increased runoff from the development contributing to neighborhood flooding, and the engineer said that they were looking into this issue; additional geotechnical data might inform modifications to stormwater design.

Ms. Mary Gallant of 10 Beacon Street wondered about the buffering on her side of the development, including any proposal for fencing, and whether any water would drain onto her lot, where some water already collects. The engineer explained that the swale is intended to catch any runoff in that direction; also each lot will have its own infiltration system for roof runoff. The applicant agreed to coordinate with the neighbors on the landscape buffer design.

Mr. Phillip Friden of 32 Washington Street stated that about 15 years ago, a flood study involving Elm Brook flooding patterns was done and that the engineer should look at that document. Ms. Rosetta Sabbag of 7 Patriot Circle also was concerned about flooding, saying that there is sometimes standing water in the corner of her lot and on the adjacent one at 9 Patriot Circle.

The discussion then moved back to the Planning Board. Mr. Cohen stated that he was not sure if this project met the intent of the cluster law and whether or not a conventional subdivision, with 1 or 2 fewer houses, might be the preferred design. Ms. Hackman agreed and indicated that one fewer lot would help to address many of the concerns. She also asked about tree protection on the house lots and if the Board could exert any control over that aspect. Ms. Perry replied that the Board could specify areas or important trees to keep.

Ms. Lloyd stated that the plan might be technically compliant with the minimum requirements of the bylaw but that it didn't meet the spirit of the cluster provision. She also felt that big houses are not the best choice for this site and neighborhood. She expressed unease about the zoning and permitting issues and did not want to predicate a decision on something that may not be legally permissible.

Ms. Mustapich said that while it is not inappropriate for landowners to maximize profit by building large houses, the impact upon abutting neighbors could not be ignored. She also gave her opinion that in this instance, neither streetlights nor sidewalks would be particularly necessary and she favored moving the road further from the boundary. Ms. Mustapich also raised the issue of mounding of houses to raise the finish grade, saying that if that were done in this subdivision, it would make them loom even more over neighboring houses. She also endorsed the idea of removing one lot.

Mr. Hanegan asked the applicant team if they would be performing soils borings, test pits or any geotechnical work to learn more about groundwater and flooding issues. They replied that this was a possibility, but opportunities may now be constrained before the spring. Ms. Lloyd and Ms. Hackman indicated their support for sidewalks. Mr. Cohen wondered whether requiring the applicant to submit a more realistic conventional plan for comparison would be in order, but

several other Board members felt that at this point, they would rather have the attention paid to designing a better cluster, with one less lot.

*MOTION: Sandra Hackman moved to continue the hearing to February 17 (but allowing the applicant to continue to a later date if they are not ready). Jeffrey Cohen seconded.*

*VOTE: 5-0-0*

100 Plank Street—Minor amendment to special permit

Applicant Vince O'Neill, principal of Walk The Plank, LLC, presented his proposal to amend the layout for parking to serve development on the Plank Street site (known as Lot 1), which is linked by special permit with the adjacent Village at Taylor Pond built by Criterion Development (Lot 2). The development concerned is the 44 residential apartments and 6,000 square feet of office space approved in July, 2013. Documents supplied to the Board for this discussion were:

- Memo from Vince O'Neill to Bedford Planning Board, dated January 9, 2015 (2<sup>nd</sup> version) seeking a modification to the special permit dated March, 2007 (and subsequent amendments) to add eight parking spaces to the Plank Street site
- Revised Layout & Materials sheet C-4, last amended January 20, 2015, prepared by BSC Group for VinCo Properties
- Memorandum from Catherine Perry, Assistant Planner to Planning Board, dated January 13, 2015, providing background information and comments on the applicant's request.

Mr. O'Neill explained that he wishes to add eight parking spaces within the Plank Street lot. This will allow him to satisfy the requirement of 1.5 spaces per residential unit within the property and also provide a few spaces near the front for the offices, which brokers have advised him will help to market the space.

The Board noted that, as explained in Catherine Perry's memo, the proposed amendment has arisen from the pending sale of the Plank Street site to Greylock Investments who have concerns about condition #5 of the July 2013 approval decision. The condition called for documentation of agreements with the owner of Village at Taylor Pond for constructing parking garages and using parking spaces on that property. The proposed amendment will avoid the dependence on the Village at Taylor Pond in these respects.

Shawn Hanegan, Chair, asked how much impervious surface will be added by the change. Mr. O'Neill stated it would be approximately 400 square feet per space, i.e. approximately 3,200 square feet, and observed that the total will be no more than was originally proposed for the large office building on this site.

Attorney Pamela Brown stated that she is representing Greylock Investments, the prospective purchaser of the Plank Street site, and confirmed that they are asking for this amendment as a condition of the purchase. Amy Lloyd asked if they intend to seek other changes. Ms. Brown responded that they may look to combine the buildings but are prepared to build according to the

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approved plan if necessary. Jeffrey Cohen said he was supportive of the amendment if it will help with the success of the project.

The Board turned to the recommendations in Ms. Perry's memo, and discussed the designation of parking spaces. It noted that calculated parking needs are 66 for the apartments and 15-17 for the office space. The applicant clarified that the intention is that six spaces near Plank Street and the site entrance will be designated exclusively for use by the offices, and the remaining 66 spaces on Lot 1 will be for residential use but some may be shared. Beyond that, parking for the office use can make use of the existing agreement for shared parking on a portion of Lot 2.

The Board noted that a properly dated version of the plan has now been received. It supported including conditions in the decision to set out the relationship to the previous approval.

*MOTION: Amy Lloyd moved that the Board approve the proposed new parking layout as a minor change to the special permit, with conditions as discussed; Lisa Mustapich seconded.*

*VOTE: 5-0-0*

### **STAFF REPORT:**

#### Development Update:

Catherine Perry provided verbal updates as follows:

- Café at Bikeway Source building – filing for special permit expected soon
- 162 South Road – awaiting further discussions; survey work underway
- MassDOT maintenance depot relocation (for information only) – public meeting in Town Hall proposed January 15
- Freedom Estates – legal issues between developers may be resolved soon, allowing outstanding work items to be addressed
- Ken's NY Deli, at Blake Block – submitting minor amendment to special permit, to expand into space vacated by Wicked Good Frozen Yogurt and to add seasonal outdoor seating; scheduled for February 4
- 120 Great Road, restaurant proposal – ZBA hearing continues January 22; Planning Board will consider scheduling site plan review after that and keep HDC informed.

#### Other:

Sandra Hackman reported attending a meeting of the Middlesex 3 Transportation Committee at which Kris Kassner, Burlington's planner, reported on what Burlington does in relation to Transportation Demand Management (TDM). Participants at that meeting expressed interest in Planning Boards adopting consistent approaches to TDM.

Lisa Mustapich added that the same topic is on the agenda for HATs on Thursday.

Sandra Hackman also reported items of interest from other MAGIC towns: Concord is proposing some measures to address "mansionization" – measuring the height of houses from existing grade rather than from mounded elevations, and setting Floor Area Ratios (FARs) for three residential districts; Lexington is proposing a moratorium on banks; and Hudson is trying filing

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with the state for a Transportation Benefit District which will operate similarly to a Business Improvement District.

Glenn Garber reported that a Planning Board entry for the Town's Annual Report has been drafted at short notice. This becomes a public report for Town Meeting. Board members supplied a few editorial changes and agreed that staff will finalize the report.

The Board noted the short term staff shortage and supported the idea of seeking some assistance with key administrative items such as meeting minutes.

### **MINUTES**

December 9 – The Board voted unanimously to approve the submitted minutes with minor amendments.

### **ADJOURNMENT**

The Board voted to adjourn at 10:00PM.

Minutes submitted by Catherine Perry

Approved as amended, February 17, 2015

Please Sign In

The following people attended the Planning Board Meeting and/or Public Hearing On 1/20/15.

\*Note: if you provide an e-mail address we can inform you of Public Hearing continuations.

<u>Name</u>	<u>Address/*email address</u>	<u>Affiliation/Committee/Board</u>
<u>BOO TOPELA</u>	<u>28 Washington St.</u>	<u>boo.topela@verizon.net</u>
<u>Jim Lescasio</u>	<u>8 Patriot Cir</u>	<u>CITIZEN</u>
<u>Heather Lawson</u>	<u>47 Hartwell Road</u>	<u>Citizen</u>
<u>David Powell</u>	<u>3 McHahn Rd</u>	<u>Finance Committee</u>
<u>Phillip Fritzen</u>	<u>32 Washington St.</u>	<u>Citizen</u>
<u>Mike Haninger</u>	<u>9 Patriot Cir</u>	<u>@ <del>cap</del></u>
<u>Maria Bard</u>	<u>5 Patriot Cir</u>	<u>citizen</u>
<u>Rosetta Sabbag</u>	<u>7 Patriot Cir</u>	<u>citizen</u>
<u>DAN SABBAG</u>	<u>7 Patriot Cir</u>	<u>CITIZEN</u>
<u>Brian + Michele Hisea</u>	<u>54 Hartwell Rd</u>	<u>CITIZEN</u>
<u>Jennifer Heller</u>	<u>36 Washington AL</u>	<u>Citizen</u>
<u>Shirley Kring</u>	<u>26 Washington St</u>	<u>Citizen</u>

