

# Planning Board Minutes September 29, 2014

**September 29, 2014**

*These minutes are not verbatim – they are the secretary's interpretation of what took place at the meeting. - Open Meeting Law, G.L. c. 30A§22.*

Board Members: Marc Garrett, Paul McAlduff, Tim Grandy, Malcolm MacGregor, and Ken Buechs  
 Planning Board Alternate: Robert Bielen  
 Staff Members: Lee Hartmann and Robin Carver  
 Recording Secretary: Eileen Hawthorne

## **Administrative Notes:**

### **Minutes\*:**

September 8, 2014  
 September 15, 2014

**B437 – Pinehills LLC, Morning Stroll – Lot Release\***  
 10-560, 10-561, 10-562 & 10-563

### **Form A Plans\*:**

**A4510 – Frank C Dunlap, Inc., 20 Holman Rd, Map 89, Lot 34G-9** – Divide to create lots 34G-10 and 34G-11

**A4499, Revised – Pinehills LLC, Map 78A, Lot A-248** – Divide to create 11-257, A-261 and easement definition

**A4511 - Pinehills LLC, Map 78C, Lots 11-190 and 11-191-** Combine to create lot 11-317

Malcolm MacGregor moved for the Board to approve the Administrative Notes as presented; Ken Buechs, second; the **vote** was unanimous (5-0)

## **ZBA 3764 – High Rock Cranberry Crescent LLC**

### **Plympton and Carver Roads/Map 105, Lot 1-27**

Special Permits for signs that exceed size requirements and to vary location of two pylon signs

The Board received the following documentation for this review:

Staff Report

Plans dated September 2, 2014

Atty. Robert Betters presented a request for a special permit in order to exceed the size requirements for the signs that will be installed as part of the Cranberry Crescent project. Atty. Betters noted that it has been determined that the special permit request for the location of the two pylon signs is not necessary as they will meet setback requirements. The 53.59 acre site is located in a General Commercial (GC) zone and has been subdivided into five lots. The proposed pylon signs are 105.75 sq. ft. in area and stand 29', 1" in height. Other pylon signs in the area are of similar or larger size and height. The proposed secondary signs as defined in the following table will also exceed the maximum size per the Zoning Bylaw:

	<b>CRANBERRY CRESCENT BUILDING SIGNS- sign area in square feet (SF)</b>					
<b>Building</b>	<b>Front Sign Primary</b>	<b>Front Sign Secondary</b>	<b>Front Sign Secondary</b>	<b>Side Sign</b>	<b>Side Sign</b>	<b>Rear Sign</b>
<b>1A</b>	<b>432</b>	<b>31.66</b>	<b>31.66</b>	<b>315</b>	<b>-</b>	<b>315</b>
<b>1B</b>	<b>159.12</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>154</b>
<b>1C</b>	<b>144.66</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>1D</b>	<b>66.75</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>2A</b>	<b>143.88</b>	<b>-</b>	<b>-</b>	<b>143.88</b>	<b>-</b>	<b>-</b>

<b>2B</b>	<b>140</b>	-	-	-	-	-
<b>2C</b>	<b>147</b>	-	-	<b>147</b>	-	<b>147</b>
<b>3</b>	<b>76.83</b>	-	-	<b>38.25</b>	<b>38.25</b>	<b>32</b>
<b>4</b>	<b>76.25</b>	-	-	-	-	-
<b>5</b>	<b>48.17</b>	<b>48.17</b>	<b>48.17</b>	-	-	-
<b>6</b>	<b>42.4</b>	-	-	-	-	-
<b>7</b>	<b>36.17</b>	-	-	-	-	<b>30.34</b>
<b>8</b>	<b>75.78</b>	-	-			
<b>9</b>	<b>105</b>	-	-	<b>105</b>	<b>81.37</b>	<b>81.37</b>

The colors and materials proposed are conceptual and may be modified as spaces are leased and the lighting plan complies with the bylaw.

Malcolm MacGregor stated that he was less inclined to support the pylon signs as they are unnecessary and are becoming an eyesore in the community. Mr. MacGregor felt that the internal signage would be sufficient to identify tenants.

Tim Grandy moved for the Board to recommend approval of Case No. 3764 to the Zoning Board of Appeals; there was no second.

Malcolm MacGregor moved to recommend denial of Case No. 3764 to the Zoning Board of Appeals based on the following reasons: The proposed signs are not appropriate in the General Commercial Zone or this specific site. The requested pylon signs are unnecessary and not needed to identify the uses located within the development.

There will be a nuisance and an adverse effect upon the neighborhood because the signs will be an eyesore to the adjacent residential neighborhoods.

The 31 internal signs adequately identify the uses proposed within this development.

Marc Garrett, second; the **vote** was (3-2) with Paul McAlduff and Tim Grandy in opposition.

#### **Public Hearing:**

##### **B593 – 223R Jordan Road Definitive Subdivision and RDD**

##### **Map 80, Lots 4-1A and 4-2**

Reconfigure to create an additional residential lot

The Board received the following documentation for this review:

Letter from Associated Engineers dated September 2, 2014

Engineering Dept. Comments dated August 18, 2014

Fire Dept. Comments dated August 13, 2014

Letter from Associated Engineers dated August 4, 2014

Locus Map and Site Photographs

Plans dated August 4, 2014

Paul McAlduff read the public hearing notice and opened the public hearing.

Seated: Marc Garrett, Tim Grandy, Paul McAlduff, Malcolm MacGregor, and Ken Buechs

Peter Hale, Associated Engineering of Plymouth, presented the request for a Rural Density Development (RDD) on property located off Bump Rock Road. The site would be divided to create a residential lot with an existing single family dwelling; a residential lot for a new single family dwelling; and 2.76 acres of open space. The site is accessed by a gravel road over a dike between the two sections of Cold Bottom Pond that is used and maintained by the existing homeowner. Emergency access would be through an existing 3,000 ft. cart path to Old Sandwich Road. The site is mapped by Natural Heritage as Priority Habitat and a report has been submitted for their review. The wetlands have been flagged and construction will not be impacted by the proposed construction. The proposed construction will not impact the portion of the site (along the shoreline of the pond) that is within a flood zone and where the wetlands have been flagged.

Robin Carver noted that this site was not included in previous subdivisions in the area and therefore, is not subject to the density restrictions imposed on those properties. Ms. Carver outlined the concerns of the Fire and Engineering Departments with the 10 ft. wide gravel access across the dike. Both departments requested that the width of the access be increased.

Mr. Hale explained that the gravel access over the dike is 10 ft. wide and then widens by a ft. on either side to 12 ft. He noted that the current owner has maintained the access over the dike for 33 years and has recently replaced the steel culvert pipe that failed with a high impact plastic drain pipe covered with 2-6 inches of stone.

Marc Garrett was concerned with the access issue and public safety. Mr. Garrett questioned whether the recent repair was temporary or a permanent fix.

Bill Shaw, Associated Engineering of Plymouth, explained that the repair was a permanent fix using a high-density plastic pipe that will withstand heavy trucks. He noted that the pipe acts as an equalizer between the two sections of the pond and the stone allows water to move through the surface.

Public Comment:

Paul Withington spoke in support of the additional single residential lot with open space.

Tom Wallace expressed a concern that portions of the proposed emergency access that abut a wetland area may not be practical for the vehicles to use during wet seasons and the impact of the weight of emergency vehicles crossing the culvert. Mr. Wallace suggested that the Board postpone action on this request in order for the neighbors to meet to determine whether a collaborative

effort to pave portions of Jordan and Bump Rock Roads would be possible. Paving of the roads may require an amendment to an existing subdivision covenant. Mr. Wallace noted that he would like to divide his property for three additional house lots if the roads could be improved.

Mr. Hale noted that the subject property is not part of the subdivision and therefore not subject to the covenant.

Malcolm MacGregor moved to close the public hearing; Ken Buechs, second; the **vote** was unanimous (5-0).

Tim Grandy supported the Fire and Engineering Dept. comments to widen the access and proposed driveway to a minimum of 12 ft.

Mr. Grandy asked if a residential fire suppression system would be installed in the new dwelling and if the proposed emergency access would be adequate. He suggested that a compaction test could be done on the emergency access and that the stability of the culvert repairs should be confirmed by a structural engineer.

Mr. MacGregor thought that a compaction test on the 3,000 ft. emergency access was excessive.

Mr. Garrett supported widening the access to 12 ft. and suggested installing a railing or fencing along the sides of the dike for safety.

Ken Buechs agreed that the access should be widened to 12 ft. for safety reasons. Mr. Buechs encouraged the neighbors to work together to improve the access along Jordan and Bump Rock Rds.

Paul McAlduff supported widening the proposed access and driveway to 12 ft. for safety.

Malcolm MacGregor moved for the Board to approve the RDD subject to the following conditions:

Tim Grandy asked that a condition be added that would require a qualified engineer to confirm that the culvert is sound.

Malcolm MacGregor amended his motion to require that a qualified engineer confirm that the culvert repairs are sound.

Prior to issuance of a Zoning Permit, the Petitioner is required to obtain permits from the Massachusetts Natural Heritage Program to show sufficient written evidence that no permits are required for this agency.

Prior to issuance of a Building Permit, the Planning Board shall review and approve the proposed location of the new dwelling at an informal meeting.

The Petitioner agrees to waive his or her right to further subdivide the lots shown as Lots 4-3 and 4-4, pursuant to the provisions of Massachusetts General Laws, Chapter 41 and waive its right to any further residential development of the premises that results in a more intense or dense use, regardless of any local, state or federal criteria to the contrary, pursuant to the provisions of Massachusetts General Laws, Chapters 40A and 41, through a Deed Restriction or Restrictive Covenant on the parcels. The term "subdivided" shall include the process of division of the lots into parcels by means of a plan not requiring approval under the subdivision control law. Notwithstanding this provision, the Planning Board may endorse the relocation of any lot lines when consistent with the intent and purpose of this restriction.

Protective Covenants and Restrictions shall be imposed upon the property subject to the RDD by the Petitioner in a form acceptable to Town Counsel which shall include the requirement that the open space within the project is to be privately owned and maintained by the homeowner of Lot 4-4, in a manner consistent with conservation, stormwater management and passive recreational purposes, as noted in this decision and as shown on the Approved Plans. The open space shall remain primarily in its undisturbed natural condition. Structures or uses not associated with those listed herein are not allowed in the open space without the express consent of the Planning Board.

Prior to endorsement of the Approval Not Required plan, verification of payment of the back taxes, interest and fees owed to the Town for the land shown on the Approval Not Required plan, if any, is to be provided to the Planning Board through evidence of a Municipal Lien Certificate.

Prior to issuance of a Building Permit, evidence that this Special Permit Decision and the Protective Covenants and Restrictions referenced in Condition No. 2 have been recorded with the Plymouth County Registry of Deeds shall be provided to the Planning Board.

Prior to issuance of a Building Permit, four (4) sets of full sized copies of all drawings comprising the endorsed Approval Not Required plan with one complete set of reproducible plans (mylars) will be delivered to the Planning Board and one (1) electronic copy of the plans shall be delivered in a format acceptable to the Town Engineer.~ Recording information for the plans shall also be provided.

Prior to the issuance of a Building Permit, the Open Space land shall be bounded with concrete bounds at the corners.

Prior to issuance of an Occupancy Permit for any individual lot, for Lot 4-4 concrete bounds shall be set at each lot corner, turning points and every 500 feet along straight property lines.

The petitioner shall widen the access road to a twelve foot (12') wide travel way; the minimum required by the Fire Department for emergency access and operations.

The petitioner shall install fencing or railing acceptable to the Planning Board along each side of the dike road for safety.

The Petitioner shall provide evidence from a qualified engineer's evaluation of the stability of the dike to assure sufficient strength and safety.

Marc Garrett, second; the **vote** was unanimous (5-0).

#### **Public Hearing (cont. from 7/28 & 9/8):**

##### **B591 – Little Herring Pond Road VOSD/Map 122, Lot 10P-1022B**

Special Permit for VOSD; Adequate Facilities and Inclusionary Housing in order to create 10 residential lots with open space and associated infrastructure

The Board received the following documentation for this review:

Draft vote dated July 29, 2104

Letter from DiPrete Engineering dated August 13, 2014

Letter from DiPrete Engineering dated September 2, 2014

Submission Narrative and Supporting Material Packet dated June 3, 2014, Revised September 2, 2014

Plans dated June 3, 2014, Revised September 2, 2014

Handout: Engineering Dept. Comments dated September 26, 2014

Seated: Marc Garrett, Tim Grandy, Paul McAlduff, Malcolm MacGregor, and Ken Buechs

Lee Hartmann noted that the proposed Little Herring Pond VOSD has been the subject of questions and discussion in the press. Mr.

Hartmann explained that the Board's discussions during executive sessions in 2005 were regarding potential litigation and how to protect as much open space as possible. He stated that David Gould, Director of Marine and Environmental Affairs is recommending that the site remain open space and is encouraging the owner to consider reasonable alternatives for acquisition. Mr. Hartmann stated that there are a number of technical issues that still need to be addressed. The attorney for the owner will be requesting a continuance of the public hearing, but the Board would like to hear from the public.

**Public Comment:**

Lee Pulis, Herring Pond Watershed Organization, presented concerns regarding the environmentally sensitive nature of the parcel and the negative impacts development would have on water quality, native and endangered species habitats, and the surrounding watershed. The organization questioned whether the parcel should be developed given that it was originally thought to be open space.

Dennis White, who was involved with Ponds of Plymouth original permitting, questioned the change from designated open space to developable area.

Laurien Enos encouraged the Board to consider the negative impacts that development of this parcel would impose on this environmentally sensitive area.

Atty. Robert Betters, representing the owner, explained that the original plan for the Ponds at Plymouth was approved around 1987 and there were no requirements for the developer to provide open space. Atty. Betters noted that at the time, there were no options available for a VOSD as an alternative to a conventional subdivision. He stated that the Land Court plan and the Phase 5 plan did not designate this parcel as open space. The Planning Board tried to protect as much land as possible and a 2005 recorded vote outlined what land was protected. Atty. Betters acknowledged that there are environmental issues with the site and they are working with the Town's peer review consultants, the Engineering Dept., and State entities to address concerns. Atty. Betters stated that the owner would be willing to consider options if the Town or an association/organization was interested in purchasing the property.

Ramona Krogman asked the Board to give consideration to public safety and environmental impacts on future generations.

A resident of River Farm Road stated that when he bought his house he was told the parcel was unbuildable.

Patrice O'Conner stated that the topography of the site doesn't lend itself to construction and any development will ruin an environmentally sensitive area.

Gerry Williams stated that she monitors the water in the spring fed ponds and was concerned with the impacts of septic systems on the ponds, aquifer, pine barrens, natural habitats and endangered species in the surrounding area.

Lee Pulis stated that it is important to preserve environmentally sensitive areas.

Malcolm MacGregor moved for the Board to continue the public hearing to November 17, 2014 at 7:15 p.m.; Marc Garrett, second; the vote was unanimous (5-0).

The Board took a five minute recess.

**Public Hearing (cont. from 9/8):**

**B592 - 417 Sandwich Road VOSD/Map 26, Lots 5-1 & 6-1**

Divide to create five residential lots, open space and associated infrastructure

Draft vote September 30, 2104

Letters (2) from Flaherty & Stefani, Inc., dated September 15, 2014

Plans dated July 23, 2014, Revised September 3, 2014

Letter from Atty. Robert Betters dated September 5, 2014

Proposed language to be added to Condition 1

Letter from Flaherty & Stefani Inc., dated July 25, 2014

Locus Map

Site Plan Review Guideline Comments dated August 6, 2014

Conservation Comments dated August 18, 2014

Handout: Driveway Easement Plan dated September 25, 2014

Seated: Marc Garrett, Tim Grandy, Paul McAlduff, Malcolm MacGregor, and Ken Buechs

Atty. Robert Betters stated that during the previous public hearing a number of issues were raised. Atty. Betters explained that he submitted a draft of the covenant and home owner's association documents that will address the stewardship, monitoring and protection of the open space.

Robin Carver circulated the draft covenant and home owner's association.

Marc Garrett requested that under 1.2 Purpose of Trust, the word "protection" be added before the words "preservation and maintenance" regarding open space.

Atty. Betters stated that they have withdrawn the request for the language change to Condition No. 1. The developer is proposing a 4 ft. wide grass strip along the driveway for pedestrians instead of the requested sidewalk. The intent of a VOSD is to minimize disruption of the existing vegetation and minimize the amount of impervious surfaces. He also noted that the owner has requested that an access off the proposed driveway be added to the plans.

Mark Flaherty, Flaherty and Stefani, Inc., stated that the driveway pavement will be 16 ft. wide with 12 in. berms on each side; there will be a turnaround at the top of the driveway for emergency vehicles; and double catch basins could be added on each side of the driveway to address the Engineering Department's drainage concerns.

Tim Grandy asked the catch basins could be connected with a trough drain.

Mr. Flaherty replied that they could install single catch basins with a trough between.

Robin Carver explained that the Town Engineer has requested reduced driveway grades and a negative driveway grade at Sandwich Street. Ms. Carver also noted that a 5 ft. sidewalk easement has been provided along Sandwich Street and the utilities to the rear lot will be installed underground.

Malcolm MacGregor asked what type of planting will be done on the rear slope.

Lee Hartmann replied that the plan shows the plantings on the rear slope as loam and seed.

Public Comment:

Chuck Bramhall spoke in support of the project.

Marc Garrett moved to close the public hearing; Malcolm MacGregor, second the **vote** was unanimous (5-0).

Marc Garrett moved for the Board to approve the special permits for B592 – 417 Sandwich Street VOSD subject to the following conditions:

The Petitioner agrees to waive its right to further subdivide the subject property, pursuant to the provisions of Massachusetts General Laws, Chapter 41 and waive its right to any further residential development of the premises that results in a more intense or dense use, regardless of any local, state or federal criteria to the contrary, pursuant to the provisions of Massachusetts General Laws, Chapters 40A and 41, through a Covenant on the parcels. The term "subdivided" shall include the process of division of the lots into parcels by means of a plan not requiring approval under the subdivision control law.

Notwithstanding this provision, the Planning Board may endorse the relocation of any lot lines when consistent with the intent and purpose of this restriction.

Subsequent to plan endorsement the Petitioner shall:

- a. Provide verification of payment of the back taxes, interest and fees owed to the Town for the land shown on the ANR Plan, if any, is to be provided to the Planning Board through a Municipal Lien Certificate.
- b. Make reference on the ANR Plan of the Special Permit; and
- c. Provide evidence of recording of this decision at the Plymouth County Registry of Deeds.

Prior to the Issuance of a Building Permit:

- Four (4) sets of full size copies of all drawings comprising the ANR Plan with one complete set of reproducible plans (mylars) will be delivered to the Planning Board and one (1) electronic copy of the plans shall be delivered in a format acceptable to the Town Engineer.
- Evidence that (1) the Homeowners' Association, (2) the Covenant, and (3) this Decision have been recorded with the Plymouth County Registry of Deeds shall be provided to the Planning Board.
- An initial deposit in the amount of \$2,000 shall be deposited with the Planning Board for retainer of a consultant. The Petitioner shall provide for the costs, if any, for the Town to retain a review consultant on an as-needed basis for review and construction administration services related to the construction of the road improvements, which shall be inspected in stages.
- A Zoning Permit must be issued.

Prior to issuance of a Final Occupancy Permit:

- A report must be submitted to the Building Commissioner and Planning Board by a Registered Professional Engineer, certifying that the drainage system and paving have been installed as shown on the Approved Plans;
- Planning staff shall inspect the property to ensure compliance with the conditions of this special permit; and
- Concrete bounds shall be set at each lot corner of the Open Space, turning points and every 500 feet along straight property lines.

The Final Plans to include a trough connecting the two single catch basins at the common driveway entrance.

The Final Plans to demonstrate adequate turnaround provisions for emergency vehicles.

Ken Buechs, second; the **vote** was unanimous (5-0).

**Other Business:**

*"Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting."*

Tim Grandy moved to adjourn at 10:05 p.m.; Ken Buechs, second; the **vote** was unanimous (5-0).

**\*On file with the Office of Planning and Development in project case files.**

Respectfully Submitted:

Eileen Hawthorne  
Administrative Assistant

Approved: October 6, 2014

