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**STERLING PLANNING BOARD
MEETING MINUTES**

May 14, 2008

Present: Robert Protano – Chairman
Ronald Pichierri – ANR Agent
Kenneth Williams – Clerk
Melissa M. French – Administrative Assistant

Absent: Michael Radzicki – Vice Chairman

Chairman Protano opens the meeting at 7:02 PM.

ANR(s)

Charles Locke of Waushacum Village Homeowner's Associates, Inc. is present with a plan to create Lot 46A on Trinity Ave. This will be a non-buildable extension of Lot 46.

Williams moves that Mr. Pichierri endorse the ANR plan prepared for Waushacum Village Homeowner's Association, entitled Plan of Land in Sterling, MA, prepared by Connorstone Engineers, revised April 4, 2008. Lot 46A to be cut from land owned by WVHA, adjacent to Parcel P16 and across the street from Lot 46 Trinity Ave. Lot 46, 46A and P16 will transfer to common ownership. Pichierri seconds it. No further discussion, all in favor, approved by the Board.

Five copies of the plan, Form A and a check for \$100.00 have been received by the Board.

MINUTES APPROVED

Pichierri makes a motion to approve the Sterling Planning Board Meeting Minutes of April 30, 2008, as corrected. Seconded by Williams, no further discussion, all in favor, approved by the Board.

MEETING :

Planning Board, Scott Miller, Haley & Ward and Bill Tuttle, DPW Superintendent

The Board met with Scott Miller of Haley & Ward and Bill Tuttle the DPW Superintendent to discuss the responsibilities of overseeing new development, in particular subdivisions, and to determine who does what.

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Miller explains to Tuttle and the Board that as stated in the Regulations, once construction has begun the primary agent is the DPW. Miller states that he or someone in his company has done inspections for the sub grade and the gravel as it goes into the drainage. He is open to whatever the Board would like to see for assignment of responsibilities.

Chairman Protano questions Miller if he or an employee is present when the tar is being laid. Miller responded that someone is present the whole day of paving. Miller tries to perform an inspection the day before paving.

Tuttle suggests that another option is to ask the developer to perform coring to determine pavement depth. Chairman Protano responds that the Board had gotten away from coring as they were getting results other than those desired. They adopted the system of having a man on site while paving and Miller commented that “they were getting a lot better results”.

Chairman Protano states that one of the biggest problems is the catch basins. When the developers put them in place they are often “off here or there” and he does not feel that this is acceptable. Chairman Protano states that these catch basins should be checked for compliance before the road process progresses too far along. The Board inspects them from time to time, as does Scott Miller, but Chairman Protano asks that the DPW be involved in the inspection process to ensure compliance. Williams explains that if not properly installed leaves and debris pile up and block the flow of water. He states that they need to have a clear vertical drop to function properly.

Tuttle states that the easiest roads to plow in Sterling are the ones with a Cape Cod berm. He questions why the town began to use granite inlets. Williams answers that the previous DPW superintendant suggested the change to prevent leaves from collecting and blocking the catch basins. Tuttle feels that the greatest wear and tear on the trucks, in winter plowing, is the catching of the plows on the granite headstones at the catch basins. Tuttle asks the Board to someday re-think the process and consider returning to the Cape Cod Berms.

Miller suggests that a meeting between himself, DPW and the contractor or developer prior to the start of construction would be beneficial to assure that everyone is clear on the details of the catch basins. Miller also thinks that it would give him a chance to see the proposed schedule of construction so that he can plan his days for inspection. Williams questions if this meeting would be better responded to if it was re-enforced in the Order of Conditions. Miller states that he will take a look at the Regulations to see if such a requirement of a meeting exists.

There is discussion about the procedure for signing off as each item on the “Subdivision Checklist” is completed. The Board wants this checklist signed by the person doing the inspection and dated on the actual inspection date.

Williams tells Tuttle that if time is taken from his day to perform inspections on a job site he should be compensated from the developer’s reserve, not the town fund. The Board

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frequently tried to get Manring, the prior superintendant, to submit his time, which he did not.

Tuttle emphasizes that his biggest concern has always been for the flow of water and the assurance that it is not in the street. Chairman Protano agrees and states that each site should also be checked that the driveways have a slight turn-up in the surface. He feels that the Board should be more diligent in this process.

Tuttle suggests that in addition to a pre-construction meeting, there should be a walk-through at the midway point. It would give them a chance to ask questions of the developer and let them know what is expected. Miller thinks this should happen just before the binder coat goes down.

(Note added after the meeting: see Planning Board minutes of January 24 and February 28, 2001 for checklist history).

Chairman Protano asks Tuttle how much he would like to be involved in Site Plans. Tuttle answers that he is “not sure yet”. Williams states that with a Site Plan, Tuttle’s involvement would be with the connection up to the road. Water supply and drainage would also be of concern to the DPW.

Chairman Protano states that Tuttle is the current Tree Warden. Tuttle has a copy of the Scenic Road By-laws and its Rules and Regulations.

FOREST GLEN – PRELIMINARY SUBDIVISION PLAN

At 8:01 pm Chairman Protano begins the review of the Preliminary Subdivision Plan for Forest Glen, off Sherwood Drive. Although it is not a Public Hearing, it will be reviewed in a similar fashion to one.

Present are Rob Levada, Sterling Countryside Builders, their engineer, Paul F. Grazewicz of Graz Engineering, LLD, 323 West Lake Road, Fitzwilliam NH 03447 and the developer’s attorney Mark Donahue, 370 Main St., Worcester MA. Also present are Richard Magdis of Sterling Countryside Builders; the current owner of the land, Tim Goss, 11 Sherwood Drive; Charles Hajdu and Kimberly George, 18 Griffin Road and their attorney, Richard Vetstein; Judy Reynolds, Evergreen Realty; and several neighbors and abutters of the project (see sign-in sheet attached).

Scott Miller of Haley & Ward is the town’s consulting engineer. He is present tonight with his review letter, dated April 7, 2008. This letter was the result of a review of the Preliminary Subdivision Plan and contains six items for comment. The developer will have opportunity to discuss and give feedback on these comments.

Chairman Protano reads into the minutes a letter from Mr. Stephen Wentzell, 21 Bean Road, Sterling MA (copy attached). Mr. Wentzell’s letter expresses concern for loss of wetlands and drainage issues.

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Chairman Protano reads into the minutes a letter (copy attached) from the Sterling Municipal Light Dept (SMLD). This letter states that a primary voltage upgrade would be needed for this subdivision.

Attorney Donahue addresses the Board and states that he would like to review some of the history of the site and introduce Paul Grazewicz, Graz Engineering, so that he may review the physical features of the site, the proposed design and the waivers that will be requested. Donahue states that he would also like to introduce and discuss a waiver request that is not currently shown on the plan, but might be of concern to abutters.

The land in question consists of approximately twelve acres. Its history as part of a subdivision dates back to 1957. A plan is in place and recorded with the Worcester Registry of Deeds, Plan Book 226 Plan 17, 12 July 1953, which Donahue shows to the Board. The applicant would like to use these twelve acres in a different fashion than shown on this recorded plan, which is now proposed on a new plan. The proposed subdivision would be a six lot cul-de-sac, using the twelve acres in its entirety.

Paul Grazewicz addresses the Board to explain the physical characteristics of the proposal. He states that the cul-de-sac is approximately 600' in length, from the edge of the right-of-way to the back of the cul-de-sac bulb right-of-way. Its effective length is 410', determined by the measurement from the frontage lots rear lot line to the end of the bulb. Zoning is neighborhood residential which requires half acre lot size with 125' frontage. This allows for six lots, two of which would be substantially larger than the others. The layout of the road is proposed to split the main area between the pond and the abutting properties, following the contours of the land which slopes downward to the pond. The road would come in at a 1% down slope matching existing grades very closely, coming through the existing lot area. There would be a low point and then an upward slope toward the cul-de-sac bulb.

The subdivision would be serviced by municipal water and all water runoff would be treated on site. Donahue explains that, as referenced in item 4 of Miller's review letter, the developer normally attenuates the peak rates of runoff pre and post development. He states that it sounds like there is a volume issue also, so the system would be designed to mitigate the volume, not just the peak rates.

The proposed road is twenty foot width pavement and a few waivers have been requested; a sidewalk waiver, a dead end water main request, and a waiver for the intersection radii. The original subdivision plan allowed for radii of twenty feet, not twenty five. There is adequate room to place pavement radii to match the existing road but the right of way radius will need a waiver.

Preliminary soil testing indicated suitable soil and decent perc rates were obtained throughout the area. Donahue explains that they do not feel there will be any problem with site placement, in accordance with Title V. Chairman Protano asks Donahue, if the dead end water main waiver is granted will the developer not need to use the 40' right-of-way to Baldarelli's land? Donahue answers yes, they would not need to utilize the right-of-way. Williams states that another option is to loop the water line extension with the water line on Griffin Road. Donahue states that this is a possibility and acknowledges

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that this would have to be the method used if the DPW refuses to support the waiver. Chairman Protano asks what the affect would be on the right-of-way if a water line had to be placed along it. Donahue answers that the existing grade would be followed and there would be a five foot cover over the water main. He states that about fifteen feet of the right-of way would be used.

Chairman Protano reads into the minutes the review letter from Haley & Ward, dated April 7, 2008, copy attached.

With respect to item #1; the developer will do the necessary evaluations and provide the components listed in a, b and c.

With respect to item #2; Atty. Donahue states to the Board that they have a different interpretation of Section 4251 of the Rules and Regulations. They feel that any existing property is not counted toward the total of six dwellings. He feels that if the Board has a different interpretation they would request a waiver and avoid argument. Williams states that he can think of two instances where the board allowed existing homes with frontage along a pre-existing road to have driveway access within the new subdivision roadway and not be considered as part of the six dwelling limit. Chairman Protano states that the direction of the Board is that it is not a problem, they have allowed it before and it does cut down on the number of curb cuts.

With respect to item #3; the developer will locate the poor condition of the road base and include its reconstruction in their plan.

With respect to item #4; Grazewicz explains that the peak rates are normally the main focus and that his drainage plan shows runoff toward the pond and that no water will be crossing Sherwood Drive. Doug Baldarelli, 20 Griffin Rd., states to the Board that water crosses Sherwood Drive at the present time and drains behind Wentzell's house. He is concerned that adding more water to the pond will present a problem. Chairman Protano comments that next door to Fedor's house gets wet every Spring and appears especially wet this year. Baldarelli states that this is the area in which water crosses Sherwood Drive. Grazewicz states that they will deal with the volume and the rate. Williams states that if any water from this project is running over the top of Sherwood Drive it will be unacceptable.

With respect to item #5; Miller states that the low impact design techniques that he refers to could be open drainage or elimination of the cul-de-sac and create a common driveway with four lots instead. Rain gardens might also be an alternative. The developer will consider this.

With respect to item #6; the decision may fall with the DPW. Williams stated that the DPW recently voted to not allow dead-end water mains. The developer will wait for guidance from the Board and the DPW.

Chairman Protano asks Grazewicz for his reason for a sidewalk waiver. Grazewicz responds that in addition to it being a cost savings, he feels that with the limited traffic people would have a safe place to walk, in the paved area. Also, the lack of sidewalk would reduce the amount of impervious cover. He states that they will wait for guidance

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from the Board and that if a sidewalk is required there is room. There is discussion regarding the sidewalk and the various board members' feelings towards having or not having one. Pichierri suggests that one of the new sidewalk materials with less impervious area be considered.

Chairman Protano takes this time to announce that the two candidates that are running for the open seat on the Planning Board are both affected by this proposed subdivision. Whoever is elected will not be able to sit on the Board during the review process and decision making process for this subdivision. That person will be able to sit in the audience and address the Board as would any other concerned citizen.

Atty. Donahue asks to discuss another waiver, not yet shown to the Board. He states that, as shown on the 1957 plan, there is a through way out to Griffin Road. This connection to Griffin Road is currently the subject of some dispute between the developer and an abutter, Charles Hajdu of 18 Griffin Road. Donahue proposes that a way to avoid further dispute on the development of this connection is to obtain a waiver granting a nine lot subdivision on a cul-de-sac. Donahue makes the Board aware that the proposal of a subdivision with a through road would result in a total of eleven house lots. He goes on to explain that a nine lot cul-de-sac would not exceed the limit for dead-end length. Donahue justifies his nine lot proposal by stating that there are unusual circumstances. One being the alternative access which creates a through road connection, assuming there is no dispute. The second, he states, is that it would be good planning for the town to consider the waiver as an alternative to the through road as doing so would cut down on impervious surface and maintenance. Donahue also states that he feels a unique feature of this project is that it is well surrounded by an established neighborhood, whereas most new subdivisions involve "punching in" to an undeveloped area, which may have been cause for the six dwelling maximum rule. He states that this nine lot waiver would resolve the dispute with Mr. Hajdu regarding the through way to Griffin Road. Donahue asks for the Board's feelings towards such a waiver.

Chairman Protano responds that his first impression is that it is a stretch. Chairman Protano confirms that all the lots maintain proper frontage and are compliant. Williams states his first impression is a clear no, and that it "flies in the face" of the recommendations of Miller to reduce the impact of such dense development. Williams does not like the idea of cutting it down to four lots and is opposed to increasing it to nine. Chairman Protano asks if there are three more houses won't there be that much more impervious surface and Donahue responds that yes, but not as much as the eleven that would occur with a through road. Donahue states that the eleven lot plan, with the through road, could be proposed without waivers, other than that for radii.

Williams suggests that if there were no problem with building the eleven lot plan with a through road that would be the plan on the table. Donahue responds that that statement is not true because they feel that the nine lot plan is a better plan. He states that the difference between nine and eleven, from a developer's view point, is that nine is a more efficient plan.

The Board states that they have never increased the number of dwelling units over what is the maximum prescribed in the rules, except for two incidents where an existing cul-se-

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sac was extended. The Board feels that increasing the number beyond six would be a dangerous precedent to set.

Williams states that he is not sure the Board is convinced that the option of a through road exists. The Board would need to be convinced that the option of a through road exists before the argument for a waiver would stand up. Donahue states that if they need to prove the right to build a through way, then one will be built, to justify the work and research put in. The Board is not willing to give a “hard” opinion at this time and will take the proposal under advisement.

Chairman Protano asks for comments from the audience.

David Agurkis, 27 Griffin Road, addresses the Board. He asks the developer if they are “talking about putting a detention pond next to the other pond”. Grazewicz responds that conceptually the plan shows the detention pond to be between the first two lots, at the back of the first lot, on the right. Agurkis is concerned with the environmental impact of the detention pond “leaking over” into the existing pond. Grazewicz responds that there will be some storm discharge so that the larger storms will have discharge through pipes leaving the basin. Small storms will be retained, treated and infiltrated back into the ground. Grazewicz states that there will be multiple basins and infiltration areas on the northeasterly side of the road (not fully shown on the proposed plans). Agurkis questions the placement of septic systems on the lots and noted that it did not sound definitive that it could be done. Grazewicz responds that this is a preliminary plan only.

Richard Vetstein, attorney for Charles Hajdu and Kimberly George of 18 Griffin Road, addresses the issue of the right-of way as well as his clients’ position on the nine lot plan. There is a dispute over the ownership of this right-of-way. Hajdu & George are asserting ownership of the property from the center line which is twenty feet in. There are two theories; 1. That there is a Title defect that goes far back in time and; 2. That there is the concept of adverse possession, which applies to twenty years of uninterrupted use. Vetstein states that he believes they have strong argument but recognizes that litigation is an unknown. Given the uncertainty, they have been trying to work things out with Timothy Goss, 11 Sherwood Drive, current owner of the land and the developers to come up with a plan that makes sense to both parties. Vetstein states that, for the Hajdu/George family, the nine lot plan is the lesser of two evils. The eleven lot plan would be of real serious impact to the family. If it becomes a choice between the eleven lot plan and the nine lot plan, they would prefer the nine lot plan and state that, in that case, the dispute over the right-of-way would go away.

Phil Nash, 17 Griffin Road, address the Board stating that he has lived on the road for 38 years and has seen water run over the road and down into the corner by the Goss and the Fedor properties on more than one occasion. He is also concerned that with the recreation facility in mind this proposed subdivision is going to create a terrible situation for the children in the neighborhood. Chairman Protano responds that if/when the applicant returns with a viable set of plans the Board has to entertain the construction of the subdivision.

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Sue Galvin, 16 Sherwood Drive, questions the number of lots in the original plan from 1957. The Board responds that there are seven internal lots and that a through street was planned. Galvin asks if the subdivision plan is not then grandfathered, as was Elizabeth Lane on the opposite side of Sherwood Drive. Williams responds that a difference with Elizabeth Lane is that the zoning changed on that side of the street from Neighborhood Residence to Rural Residence. The side of the street with the proposed Forest Glen Subdivision has remained Neighborhood Residence and if they want to build the recorded Definitive they would have to build it as exactly shown on the plan. Donahue clarifies that the Plan governs the roadway and Zoning governs the number of lots.

Williams alerts the applicant that they need an extension of the ninety day clock. The applicant makes the request in writing.

Williams reads the written request and moves that the Board approve the extension of time for Planning Board action on the Preliminary Subdivision entitled Forest Glen, including the filing of the decision with the Town Clerk, up to and including June 30, 2008. Seconded by Pichierri, no further discussion, all in favor, approved by the Board.

The review of the Preliminary Plan was continued to a time and date to be communicated to the Board by the Applicant.

SPACE AGE ELECTRONICS – SITE PLAN REVIEW

It being 9:25 pm, Chairman Protano opens the Site Plan review for Space Age Electronics. This is the third submission of a site plan review for Eugene Mongeau, Space Age Electronics. The first two reviews were not completed.

Present are Mr. & Mrs. Eugene Mongeau and William Berry, Berry Engineering, Petersham, MA.

At the March 26, 2008 Planning Board meeting Eugene Mongeau submitted new plans dated March 15, 2008. A review date was set for May 14, 2008.

At this (May 14) meeting a new set of plans is submitted, dated May 14, 2008. This revised plan addresses the comments derived from Scott Miller's review letter, dated May 5, 2008.

Chairman Protano reads into the minutes the letter from Miller, dated May 5, 2008. The responses from Bill Berry are as noted;

Item #1a,b,c, Berry responds that the flow tests results, prepared by the DPW, showing that adequate fire flow was available were submitted in June 2006. The DPW has been contacted in an effort to obtain copies of these test results. The proposed building is 35,000 square feet in size and will be equipped with sprinklers, as required.

Item #2, the revised plan shows the 8 inch diameter of the water main to the fire hydrant.

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Item #3, Mongeau responds that Space Age Electronics uses no hazardous material nor will have any dumping of waste at the site.

Item #4, the total lot area is 12 acres and the proposed discharge of sewage is 100 gallons/acre/day. Miller suggests that because the site is located in a Zone II confirmation from the applicant should be in writing. Williams states to Berry that the Board will need something in writing. It was noted that the septic system design was approved in 2006.

Item #5, Miller withdrew this comment regarding the depth of the stormwater treatment unit.

Item #6, the operation and maintenance plan for the drainage systems and drywells has been added on sheet 6.

Item #7, Berry responds that printouts have been emailed to Miller. He now hands these printouts of the summary report and retaining wall design to the Board.

Item #8, the sizes of the drywells have been increased, shown on Sheet 4.

Item #9, the roadway stationing has been added to the Grading and Utility Plan.

Item #10, a note has been added to Sheet 2 including the material of construction for the retaining walls.

Item #11, the proposed contours at the storm water management pond have been added and are detailed on Sheet 6.

Item #12, the impervious core has been detailed in the westerly side of the storm water management pond and has been added to Sheet 6 and the plan to Sheet 2.

Item #13, a note has been added to Sheet 2 specifying the restoration of various disturbed areas with appropriate loam and seed treatment.

Item #14, the fencing along the access road has been labeled.

Item #15, the proposed locations of the electric and communications conduit or overhead conductors have been added to Sheet 2.

Item #16, Sheet 1 is now entitled as a Site Plan.

Chairman Protano asks Miller for further comments, he has none.

Chairman Protano asks the applicant how they are making out with the Conservation Commission. Berry responds that to the best of his knowledge they have approved the plan and are to issue an Order of Conditions on May 20, 2008. Chairman Protano reads the paragraph from the Conservation Commission's letter, dated May 7, 2008, pertaining to Space Age Electronics. It states that the project was approved with the condition that

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the retaining wall designs be detailed and stamped prior to construction. Pichierri notes that the Order of Conditions should state "prior to the start of construction".

Chairman Protano confirms with Miller that the plantings and lighting have been reviewed and are shown on the plan. Parking is adequate. Impervious area does not need a variance. A sign will be on site set back from Chocksett Road, as shown on Sheet 2. Pichierri requests that a light be added to the driveway, half way down and he would like to see a stop sign.

Chairman Protano asks Mongeau what Space Age Electronics does. Mongeau responds that they build fire related products. This proposed plant is where light assembly, inventory and shipping will take place.

The Planning Board and Space Age Electronics will re-convene on May 28, 2008 at 7:30 pm.

Williams reads the request for extension of time for Planning Board action on the Site Plan entitled Space Age Electronics including the filing and decision with the Town Clerk up to an including June 16, 2008, signed by Eugene Mongeau. So moved, Pichierri seconds it. No further discussion, all in favor, approved by the Board.

MAIL:

Memo from T. Ackerman – re: Networking Cost Data.

(Note added after the meeting; a response was sent to Ackerman stating that the Board does not incur any of the noted costs.)

Various notices and FYI's were reviewed with little interest or significance to the Board.

BOARD OF APPEALS

Notices reviewed; Petitions granted, Notice of May 20, 2008 Hearing and Legal Notices.

MOTION TO ADJOURN

Chairman Protano makes a motion to adjourn the Planning Board Meeting at 10:19 PM. Seconded by Pichierri, no further discussion, all in favor, approved by the Board.

The next regularly scheduled meeting will be on Wednesday, May 28, 2008 at 7:00 PM.

APPROVED BY:

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