

Planning Board – Town of Spencer

Minutes



Regular Planning Board Meeting
Tuesday, November 23, 2010 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

The meeting was called to order at 7:05 p.m.

Planning Board Members Present: Chairman Fabio Carrera, Shirley Shiver, Paul Sauvageau, and Robert Ceppi.

Planning Board Member Absent: None

Staff present: Michelle Buck, Town Planner, and Bea Meechan, Senior Clerk, ODIS.

New Business:

A. Zoning Amendment Section 4.8.3. The Board of Selectmen (BOS) requested the Planning Board and the Zoning Board consider amending Section 4.8.3 of the Zoning Bylaw, specifically relating to home-based contractors (as defined in Section 4.8.3.A.3 of the Zoning Bylaw) and the requirement that these businesses be situated on a parcel of at least 2 acres in size (Section 4.8.3.E.1), and must be located in the RR and SR districts (Section 4.8.3.E.2).

The current Bylaw limited the use (Use of Residence for Business Purposes) to be located in the RR and SR district on parcel of at least 2 acres and must obtain a special permit from the ZBA. The zoning amendment proposes to eliminate the 2 acre minimum and add the VR and LR districts. [The minimum lot size in VR district is 22,500 sq. ft.; and 22,500 sq. ft (1 or 2 family) for LR district].

The Board read the letter from the BOS and reviewed the specific Section in the Bylaw at this time. Ms. Shiver commented the issue was previously discussed prior to the Bylaw becoming effective, and it is understood the Board will revisit the issue again. However, there should be different restrictions such as the size and number of vehicles used in the business allowed to park at the premise, etc., between Home Business and Home Based Contractor Business. In addition, the definition of Home Based Contractor (4.8.3.3) which reads “This category is meant to serve the needs of small businesses *with limited space* needs...with the expectation that once the business has *grown to a larger size*...” the wordings *limited spaces*, shall be identified in terms of the area measurement (sq. ft, acre, etc), and also *a larger size* should be more specific whether it is referred to the size measurement or number of employees.

All members agreed the language in the Bylaw does need a revision. Ms. Shiver asked if other Sections in the Bylaw cross-reference this, Section 4.8.3. Ms. Buck said she will check the Bylaw.

Ms. Buck said she will draft a modification and also discuss it with Adam Gaudette, Town Administrator. The subject will be on the agenda for the December 21, 2010 Planning Board meeting. A public hearing for Zoning Amendment will tentatively be scheduled for the Board's January 2011 meeting.

B. Continued Public Hearing – Laureldale Woods, LLC, Paxton Road, extension of time to complete the project. *Mr. Carrera opened the hearing at 7:25 p.m.* The application was submitted by Mr. Donald O'Neil, the applicant's attorney. The applicant is requesting an extension for the definitive subdivision plan to allow additional time to complete the project. This is a 27 lot subdivision for single-family homes and was approved by the Planning Board on December 5, 2006, and amended on October 7, 2008 and again on October 6, 2009.

Mr. O'Neil said due to the current real estate market, it does not make sense to start construction. He asked to extend the starting and completion time for Phase II construction. The original approval required that the road for Phase I must be completed to town standards approved by the highway department, prior to starting any construction work for Phase II. Town Officials (Spencer Highway Department and Utilities & Facilities Department) met with the applicant's engineer to review conditions of the road on Phase I. The estimated cost for road completion was \$25,000 - \$30,000, and must be finished and pass inspection prior to road acceptance at the Annual Town Meeting (ATM). At the time the ATM was a couple months away - which presented a time critical issue. In addition, the applicant didn't make any sales on the property due to the economy, thus no revenue has been produced. With all these elements, Phase I's road completion has stalled. However, the applicant is still responsible for road maintenance.

The public hearing originally scheduled for October 19th was continued due to lack of quorum. Mr. O'Neil recalled there was an abutter present to oppose the request, and the same abutter is here tonight. Mr. O'Neil thought by opposing, this will be a disadvantage to this individual and to all the abutters due to the following:

- First:** The bond for Phase I had been released (no security left).
- Second:** The applicant has no obligation to finish the road if the request for extension is not approved.
- Third:** Since the road on Phase I has not yet been accepted as a public road, the burden of maintaining (sanding and plowing road and snow) will be upon on the abutters.

With the Permit Extension Act, the applicant is automatically qualified for a two-year extension. Mr. Sauvageau inquired as to why an extension is being requested from the Board.

Mr. O'Neil replied the applicant would like to continue work with the Board and preferred this approach - asking the Board for the approval. If the Board were to deny the request, the applicant is still eligible under the Permit Extension Act.

Mr. Ceppi commented the Board could approve a 2-year extension - the same as the Permit Extension Act. Ms. Shiver said the applicant asked for 1 year, the Board is bound to authorize only one year increment based on Spencer Subdivision Regulation. In addition, the Board has never grant an approval on any extension application for more than one year at time. [There was a discussion on the commencement (starting) date and the completion date. If the extension is approved, the condition number 7 on the Certificate of Decision will have commencement deadline date of October 17, 2011 (for road and drainage construction) and April 17, 2013 is a completion date].

The Board opened the hearing to the public for comments and questions at this time.

Ms. Rita Dzindolet of 11 Debbie Drive said she has been residing at the address since 2005. The property is unkempt, with overgrown trees, manholes are in deteriorated condition, and there is a large construction trailer on the site. All these elements are eyesores that have an impact on the property's value. Ms. Dzindolet also provided several photograph pictures to the Board. She made additional comments that every winter when it is snows, she has to track down people who are responsible for plowing and maintaining the road; the sidewalk (onto her property) wasn't constructed correctly; and the applicant needs to complete the Phase I's road construction.

Ms. Dzindolet is opposed to the approval. It has been several years since the road was first constructed, and yet the applicant kept requesting an extension of time and the Board kept granting the approvals. In the meantime, no progress on the road completion was made. She asked the Board to take all above issues under consideration, and if possible enforce the applicant to finish the Phase I road construction.

Mr. O'Neil stated the extension being requested is for Phase II's construction, and that has nothing to do with Phase I. The conditions in the Decision required a completion of the road on Phase I prior to beginning Phase II's construction. Logically, if the Board doesn't grant an approval on the extension requested the following were likely to occur: The applicant has no obligation to finish the remaining work for road completion, the road has yet to be accepted by the Town as a public road, the bond had been released by the Town, thus the maintaining of the road will shift to the abutters. Opposing/preventing the extension is not in the abutters' best interest.

Mr. O'Neil commented that the applicant has demonstrated "good faith" to the Town by keeping the taxes current, always requesting an extension in advance (didn't let it lapse), and continued plowing and maintaining the road. This event could not go on indefinitely, when the economy is improved, the houses/lots get sold and revenue is generated the road will get done at some point. The existing road condition is not as bad as being described by the abutter.

Mr. Ceppi said the second coat topping wasn't done correctly. (He described specific areas in question to Mr. O'Neil).

Mr. O'Neil said the road is now 10 years old, and it has deteriorated over the years. It was in good shape when it was originally completed. The road wasn't accepted due to the pending

issues on the installation of sidewalks and access ramps for wheel chairs. The housing market has steadily plummeted for 4-5 years now. In order to be accepted as a public road, it must meet the satisfaction of the Highway Department - meaning pristine condition. If no revenue is being produced then it has to wait, and the longer you wait more costs are added to the construction. In regards to the trailer being at the site, it is located far away from the abutters. Mr. O'Neil suggested the Board perform a site visit.

Mr. Ceppi asked whether the applicant is required to obtain a permit for the construction trailer being placed at the site. Mr. Carrera asked if there are any provisions in the Town bylaw or in Board of Health code and regulations specifying the unkempt property as being a health hazard and nuisance to the neighborhood. The Board directed Ms. Buck to check with the Building Inspector and the Health Agent.

Mr. O'Neil stated that the applicant has full intentions to complete the project, but is facing a financial drain like the rest of the developers in town at this time. With that being said Mr. O'Neil is hoping the Board continues granting the approval. The applicant is responsible for the plowing cost which is beneficiary to the Town by not spending tax money for the plowing.

Ms. Dzindolet responded to the above comments from Mr. O'Neil. She is also paying taxes to the Town, but not getting the service as the residents should have from the Town. The incompleteness of the road is creating an inconvenience to the abutting residents, how long will this go on?

With lengthy discussion and after hearing the abutter and the applicant's representative explain their reasoning, the Board addressed the following:

- First:** The road is a private road; the Town has no obligation to maintain it.
- Second:** The Town doesn't allocate the tax monies, paid by the residents, to cover the cost of plowing for this specific road (private road).
- Third:** The road completion is pending due to the un-foreseeable economic conditions.
- Fourth:** The State passed the Permit Extension Act, meaning that the State automatically granted a 2-year extension to the applicant.

In conclusion, the Town is not in a position to cover the plowing cost and the bond was already released to the applicant. Most importantly, the applicant is eligible under the Permit Extension Act, and doesn't require an approval from the Board.

With no further question and comment from the Board and the public, Mr. Sauvageau made a motion to close the hearing at 7:55 p.m. Ms. Shiver seconded the motion and the vote was 4-0 in favor.

Mr. Ceppi made a motion to grant Laureldale Woods, LLC, a one year extension [of the commencement and completion deadlines] on the definitive subdivision plan for Phase II which was previously approved by the Planning Board on December 5, 2006, and amended on October 7, 2008 and October 6, 2009. Ms. Shiver seconded the motion and the vote was 4-0 in favor.

Mr. O'Neil thanked the Board and Ms. Buck for their time.

C. Public Hearing – Major Site Plan Review, FLEXcon Company, Inc., c/o Michael Engle, 5&11 South Spencer Road. *Mr. Carrera opened the hearing at 8:00 p.m.* The applicant proposes to remove an existing parking lot and construct a 20,000 square foot two-story Dry Lab building. The project also includes utility and drainage construction, repaving of a portion of the parking area, and the addition of landscape materials.

Mr. Carrera asked the applicant for the presentation of the application.

Note: Mr. John Britz, FLEXcon project manager, Ms. Elizabeth Clark, professional engineer from Beals & Thomas, and Mr. Kevin Kozak, design project manager from Cutler Associates were present this evening.

Mr. Britz said the purpose of the proposed plan is to combine all labs into one location (currently all labs are located in different campus throughout the premises). In order to stay competitive in the industry, it is important to develop the new technologies for enhancing the current products and producing the new products. This new building will serve as Research and Development Division and housing of all labs. He then turned the presentation to Ms. Clark at this point.

Ms. Clark said the property is approximately 33.4 acres in area and located within two zoning districts. The existing parking lot is located in the Industrial zoning district (at the intersection of South Spencer Road and West Main Street) and the new building is proposed to be constructed at this site. The southern portion of the property is located within the Aquifer Protection District which is not subject to this proposal. The plan also proposes a reduction of 42 parking spaces on the existing parking spaces, and has received a special permit approval from the Zoning Board of Appeals on December 14, 2010. There will be 580 parking spaces remaining. Approximately 1,200 sq. ft. of the proposed building is in the buffer zone of a wetland across South Spencer Road. FLEXcon filed the Notice of Intent with the Conservation Commission and the hearing was held On October 27, and will continue to December 8, 2010. Ms. Clark continued and explained the following:

Utilities: The proposed building will be served by municipal sewer and water. Gas and electric services will be received from the utility that is already located on the campus. The waste will discharge to an existing sewer manhole. Water and fire protection service will be obtained from the existing 10-inch water main (South Spencer Road).

Landscaping: The planting consists of trees and shrubs, as well as coniferous and broad leaf evergreens to complement the existing landscape areas on the campus.

Drainage System: Currently, the runoff from a portion of the site subject to development is drained into the drop inlet in South Spencer Road. The drop inlet conveys runoff across the street to a bordering vegetated wetland area. There is limited water treatment provided at the present time, and a few catch basins that provide a minimum of sediment removal. The drainage system for the proposed plan is designed to

improve and maintain the existing drainage condition – see detail in the manual book.

Stormwater treatment system: The plan is to incorporate the work quality with CDS unit which will provide an 80% TSS removal, and also hydrocarbon removal. In addition, the system will filtrate and recharge the roof-runoff water in the area created from the new building.

Mr. Ceppi asked the following questions:

- How is the hydrocarbon removed from the runoff water in the stormwater treatment system?
- How to determine whether the working quality unit contains a relatively high level of hydrocarbon, or it is within the requirement?
- Where is the filtration system located – under the parking lot or on the side of the site?

Ms. Clark explained there is a separator (carbon-cartridge) outlet inside the work quality unit. The runoff flows in the unit, goes through the separator outlet which filters the water and separates the hydrocarbon. The process of separation and filtration is described in the information submitted with the application. The inspection on the hydrocarbon level will be performed bi-annually as required; she then referred to the manual book. The filtration system will be located under the ground of the parking lot. Ms. Clark turned the presentation to Mr. Kozak at this point.

Mr. Kozak described the proposed design building to the Board. The building has a rectangle shape with the front side facing east, and the back facing South Spencer Road. Both the front and back (of the building) will be similar in design. There are 3 entrances; the main entrance in the front and 2 side entrances. There is no back entrance from the South Spencer Road; thus there shall not be any impact on the existing traffic flow on South Spencer Road.

The Board asked for a brief presentation on the floor plan and the difference between the Wet Lab and the Dry Lab?

Mr. Kozak said the proposed building has 2 floors and contains 20,000 sq. ft.; 10,000 sq. ft. each floor. Basically, the floor plan is one big open Lab, some offices, and cubicles. The majority of the spaces are dry (both floors). There are some chemical areas within FLEXcon's campus. These chemicals will be relocated to the new building in the spaces specified; Wet Lab. A plan and protocol procedures on handling hazardous waste are already in place. The quantity of the contained chemicals will not be increased. The second floor plan is a carbon copy of the first floor.

Ms. Buck said there was a minor comment from Spencer Highway Foreman, stating FLEXcon when plowed snow has pushed it on to Town's property right-of-way (small parking area located on South Spencer Road). FLEXcon should retain/store the snow on its site.

Mr. Edward Allie, FLEXcon's Director of Engineer, responded the area in the question is a small parking area, not a snow storage space. He already has had a discussion with the contractor (who does the plowing); snow shall not be plowed onto this area anymore, and all excess snow will be removed from the parking lot.

Mr. Sauvageau asked the applicant to specify all of designated locations for snow storage on the premises. Mr. Ceppi inquired as to the method use for determining the amount of space in relation with the volume of snow – in his opinion it is relevant to the approval decision.

Ms. Clark explained the determination on the storage spaces is based on the spaces available, she then pointed out all designated areas on the plan. Mr. Allie, in his opinion, stated that the issue is resolved as mentioned above; the contractor will not pile the snow onto the subject area anymore and will remove all excess snow from the parking lot (this shall not be considered as a factor in the approval decision's process).

Ms. Buck said Mr. Robert McNeil, Spencer Utilities & Facilities Superintendent, also has a comment on the design of the drop-inlet; when checked the revised plan (dated 11/5/10) was not what he has envisioned.

Ms. Clark stated Mr. McNeil did point that out at the time they met, and the revised plan reflects the change on the drop inlet. She will contact Mr. McNeil to clarify on the inlet.

The Board reviewed the response prepared by Beals & Thomas dated 11/5/10 in regards to comments made by Cullinan Engineering, Town Peer Engineer. The Board asked the representatives to clarify the following:

- **Compliance with Zoning – Buffer.** Ms. Clark said the current Bylaw states a-60 foot buffer is required when Commercial (C) or Industrial (I) zoning district are *adjacent to any other district*. FLEXcon's property is in the Industrial District. The abutting property across South Spencer Road is in the C district– therefore it is in compliance with the bylaw.

The bylaw is unclear on the “*adjacent to any other district*”. When the area is located within C/I district, one could interpreted *the other district* being as VR, LR, or RR district. The Board thought this subject matter should be determined by the Zoning Board of Appeals. Ms. Clark replied the ZBA has granted a special permit already. Ms. Buck said the ZBA did not address this particular subject because the applicant was not requesting an exemption under the bylaw on the Buffer requirement. Due to no official determination, the Board does not wish to set a precedent that may interpret the Zoning Bylaw incorrectly from the ZBA. Ms. Clark said if the buffer requirement is applicable to the proposed project, the distance from the new building to the closet abutting building is 60-feet. *In conclusion:* The proposed meets the requirements; it has adequate 60-feet of buffer and the property is not adjacent to VR, LR, or RR district.

- **Fire Protection System Plan.** The Fire Chief has reviewed the site plans and has no comments but reserved the right to comment when Fire Protection Plans are submitted. The Board had concerns on the chemicals in the wet lab. Mr. Kozak explained he will work with the Fire Chief on the plans. The sprinkler system will be installed in the entire building. In addition, all plans must be reviewed and inspected by the Building Inspector.
- **Formal Traffic Impact Assessment – not required.** The existing employees will move into the new building once it has completed. FLEXcon has no intention to recruit any new employees. Thus there is no increase in traffic volume on South Spencer Road.

The Board does not wish to delay the process. However, the Board would like to hear comments from Cullinan, Town Peer Engineer, in regards to the drainage system. In addition, the design of the drop inlet has yet to meet Mr. McNeil's satisfaction. The Board also would like to review a draft decision prepare by Ms. Buck with conditions that reflect the above discussions first. The Board asked as when the proposed project is scheduled for a construction.

Mr. Kozak replied the construction plan is scheduled in spring of 2011.

Note: There were no abutters present at this hearing.

The Board decided to continue the hearing to the next meeting date, December 21, 2010. Mr. Carrera announced due to prior engagement he will be present at 7:30 p.m. on that date.

Mr. Sauvageau made a motion to continue the hearing to December 21, 2010 at 7:30 p.m. Mr. Ceppi seconded the motion and the vote was 4-0 in favor.

Ms. Buck will prepare a draft decision and submit to the Board members for review prior to the Dec 21 meeting.

D. Minor Site Plan Review – Goldacre Realty c/o Leo and Philip Gertsios, 291 Main Street. The applicants established a franchise business known as Dairy Queen (DQ) located on 291 Main Street. The DQ Corporation has mandated certain changes for its locations from which all franchisees' must have substantial compliance. The changes involved both the image of the business and the physical layout of the building.

The Board asked the applicants for a presentation on the application.

Mr. Thomas Michalak from Graves Engineering, the applicant's engineer, went over the changes and described the proposed plan as follows:

- An addition of 676 square feet to the existing building.
- An outdoor dining area of 15.5'x27.5' extends from the addition on the east side of building.
- A partial retaining wall enclosing the outdoor dining area.
- Realignment of the parking lot, reducing the parking spaces to accommodate the changes.

The above modifications required an approval from the ZBA which previously has granted a special permit to the applicants permitting the following: 1) Allowing for an addition, chimney, and patio in the front setback; 2) Allowing for 34 parking spaces (36 is required); 3) Allowing for a reduction in the perimeter buffer from 10 feet to 5 feet; and 4) Allowing for increasing the impervious surface coverage from 88.6% to 96.8% (50% maximum allowed).

The establishment provides sit-in dining service and drive through window service. At the present time the site has one-way traffic circulation, thus the traffic flow is constricted. For safety concerns it is necessary to modify the curb cut on the eastern entrance - make it larger in width. The applicants already submitted an application for Access/Curb cut to MassDOT.

The proposed curb cut is 29.5-feet wide from the access point. This will add more spaces providing ample area for vehicles (at the drive-through and parking spaces) to safely maneuver in the area of the building addition and outdoor dining area, and also provide better traffic flow for the drive-through.

Mr. Michalak said in regards to the drainage, the applicants will modify a minor grading, and install an inside drain under the outdoor dining area.

Mr. Ceppi asked as to the routing of the drains, where the runoff will be discarded.

Mr. Michalak responded they are routed to the existing double-grate catch basin located on the western exit. In addition, two yard drains will be installed one on each side of the existing sidewalk and will be tied into the existing drainage in the area. He pointed out the location on the plan submitted, dated 11/16/2010.

Mr. Carrera inquired as to the outdoor dining whether it is seasonal or all year round?

The applicants said it is only seasonal. The ZBA requested the applicants to install a fence, no more than 5 feet in height, along the eastern property line. The applicants asked if the Board still required arborvitae trees be planted along the fence.

Mr. Carrera said from an aesthetic point of view the applicants can do planting along the fence if they wish. The Board does not require that.

The applicants received an offer to purchase a vacant lot that abuts the site. The two properties are in zoning districts that do not allow most commercial development. Attorney Philip Stoddard, applicants' attorney, is currently in a process of cooperating with Town Officials for a solution.

The Board and Ms. Buck were reviewing the response from Grave Engineers at this time. The applicant's response was provided to Cullinan, but Ms. Buck hasn't received any correspondence back yet. There are some concerns which need to be addressed such as: the runoff created by the proposed increased impervious area; stormwater plan; and the pending application on the Access/Curb cut from MassDOT. The plan needs to be revised to depict the fence along the east

side of the property line as required by the ZBA. The Board asked what would happen if the plan doesn't get an approval, in addition, does the MassDOT acknowledge that the runoff from the proposed plan will drain into the Mass Highway's catch basin.

Mr. Michalak said the application [to MassDOT] is for a minor modification to the existing curb, and, if not approved the plan will be sent back to the applicant with comments which require a revision of plan. The hydrologic analysis was performed and found that, for the 100-year storm event, there is less than 1% increase in the peak flow rate. The new expanded impervious surface coverage on the site is relatively small area. The increase runoff will be minimal and shall not have any significant impact to the existing drainage. If there is any question on the existing drainage (owned by Mass Highway), he is certain that they will comment to the applicants.

Due to the addition information is needed as stated above, the Board decided to continue the meeting to the December 22, 2010. Mr. Ceppi made a motion to continue the meeting to December 22, 2010. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

Old Business:

A. Performance Guarantee, Candlewood Estates Phase I. The amount of bond was set for \$42,000 since 2006, and the Board approved the bond for the same amount in 2008. The bond will expire on December 13, 2010. Ms. Buck thought this amount should be reviewed with updated pricing according to the current economy. Graz Engineering reviewed and updated the cost to \$49,813 which reflects the current pricing. Ms. Buck submitted the estimation to the Board at the previous meeting (10/19/10). The Board directed Ms. Buck to have Mr. Robert McNeil, Superintendent of Utilities & Facilities (U&F) check on the estimation cost and report back to the Board.

Mr. McNeil concurred with the new bond amount and recommended the Board to set the bond to \$49,813. Mr. Brian Murkland, owner of Candlewood Estates, submitted additional correspondence showing a lower quoted amount from another contractor company, and asked the Board to accept the lower amount. Mr. Murkland also contacted Graz Engineer in regards to the matter. Mr. Brian MacEwen from Graz Engineering sent a memo via e-mail which Ms. Buck received *today* and secondary to Mr. Murkland, implying that the amount of \$42,000 may be sufficient for the town to complete the project should there be a default. Ms. Buck submitted the memo (from Graz Engineering) to the Board at this time.

This has created concern in that Graz Engineering works for the Town and didn't consult with Ms. Buck (Town Planner) before the issuance of the memo both to her and Mr. Murkland at the same time. Graz Engineering's memo had the effect of undermining the Town's position. Ms. Buck contacted Mr. MacEwen and expressed her concern with the matter. The Board commented for the Town Peer Review Engineer, Graz Engineer's conduct was inappropriate. The Board agreed with the amount of \$49,813 recommended by Mr. McNeil and Ms. Buck.

Mr. Sauvageau made a motion to set the bond amount to \$49,813.00 as recommended by the Town Planner, Ms. Buck, and Superintendent U&F, Mr. McNeil. Ms. Shiver seconded the motion and the vote was 4-0 in favor.

B. Performance Guarantee, Sunset-Holmes. Webster First Federal Credit Union (Webster First FCU) is now the owner of the project. There is a Letter of Credit of \$90,000 issued for the road completion. Graz Engineer did review on the work remaining and updated the pricing to \$114,000 according to the current economy (although the estimate does not include the cost of as-built and road acceptance plans). Ms. Buck thought there might be a new owner, but needs to confirm with Webster First FCU. At the previous meeting the Board directed Ms. Buck to have Mr. McNeil check on the estimation and report back to the Board.

Ms. Buck said Mr. McNeil worked for Graz Engineering at the time of the original approval. He set up the bond amount for Sunset-Holmes therefore it is a conflict of interest if he were to render his opinion in regards to bond updating. The current owner is Mr. James Laney, not the Bank. The Letter of Credit, issued by the Bank, has apparently transferred to Mr. Laney as part of the sale agreement. Ms. Buck will seek advice from Mr. Adam Gaudette, Town Administrator, or Town Counsel on the Letter of Credit.

The Board suggested contacting Mr. Laney to discuss the new bond amount with him. For future subdivision projects and site plan (major and minor) there should be a written condition in the Certificate of Decision specified that “the Planning Board reserves the right to have Town Peer Engineer review the bond for road completion (Subdivisions) and landscaping plan (Site Plans) periodically.”

Other Discussion: Town Planner Report

A. Open Space and Recreation Plan. The plan is steadily progressing. Ms. Ginny Scarlet is finalizing the GIS maps and inventory of open space. The Town has submitted a grant application to the State recently for the Recreation Trails Grant Application (for mapping of the Mid-State Trail in Spencer). Ms. Buck said it was a group effort coordinated by Mr. McNeil, Ms. Scarlet, Mr. Joseph Ford, the intern, and herself.

B. Stormwater Regulations. The regulations were nearly completed when Ms. Buck reported to the Board at the previous meeting, but needed revision to reflect changes discussed at Stormwater Committee meetings. When Mr. McNeil, Ms. Scarlet, and Ms. Buck met a couple months ago it was agreed that certain minor stormwater management applications will go to U&F to be reviewed by Mr. McNeil. However, Mr. McNeil recently notified Ms. Buck that he no longer wishes to review the minor plans. Thus, everything is going back to where it started. The members and Ms. Buck expressed that they don't have any expertise or engineering background to review such plans. The other option, if that is possible, is to have the Building Inspector do the plans' reviewing, or send it to Town Peer Engineering. Ms. Buck will meet with Ms. Scarlet in the coming week to discuss what course or action is practical for everyone involved.

C. Country Spirits. Ms. Buck believed the applicant did complete the required items as stated in the Certificated of Decision. Mr. McNeil would like to obtain a written document from the applicant that indicates he is to assume full responsibility for the future maintenance of the trench drain and bituminous concrete berm along Old Main Street. There is still a minor issue with the Conservation Commission. Ms. Buck said the Conservation Commission, prior to the issuance of the Certificate of Compliance, could add this (written document) into the conditions. She will notify Ms. Scarlet of the matter.

E. Permit Extension Act. There have been on-going discussions and several un-answered questions pertaining to the Permit Extension Act. Ms. Buck had obtained a new document issued by the Executive Office of Housing and Economic Development with answers to frequently asked questions about the Act. The Act applies to regulatory approvals issued by local, regional or state entities that concern the use or development of real property. Approval is defined broadly to include any permit, certificate, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights, and any order, except for enforcement orders. The Act provides for a two-year extension of all such permits and approvals. The members reviewed the document and found answers to questions they previously had.

Approval of Minutes: Minutes for October 19, 2010

Ms. Shiver made a motion to approve the minutes for October 19, 2010. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

With no further discussion, Mr. Carrera made a motion to adjourn the meeting at 9:00 p.m. Ms. Shiver seconded the motion and the vote was 4-0 in favor

Submitted By:

Approved By:

Bea Meechan, Senior Clerk

Fabio Carrera, Planning Board Chairman

List of Documents used on November 23, 2010

- Sections 4.8.3, 4.8.3.A, 4.8.3.E.1, and 4.8.3.E.2 of the Zoning Bylaws.
- Application on Extension of Time, Laureldale Woods Subdivision.
- Photograph pictures of the site (Laureldale Wood Subdivision) from the abutter; Ms. Rita Dzindolet.
- Major Site Plan application from FLEXcon Company, Inc., dated 10.05.10
- Revision Plan prepared by Beals & Thomas, Inc., date 11.05.10
- Response to comments prepared by Beals & Thomas, Inc., dated 11.8.10.
- Minor Site Plan application from Goldacre Realty c/o Leo and Philip Gertsios, Dairy Queen, 291 Main Street.
- Revision Plan prepared by Graves Engineering, dated 11.15.10.
- Response to comments prepared by Graves Engineering, date 11.15.10.
- Memos from Graz Engineering, LLC, itemized list on work remaining and estimation amount on Candlewood Estates and Sunset/Holmes Subdivision.
- E-mail from Brian MacEwen to Michelle Buck, subject Candlewood Estates, dated 11.20.10.
- The Permit Extension Act, Frequently Asked Questions, November 2010 [from the Executive Office of Housing and Economic Development (EOHED)]