



TOWN OF HOPEDALE
Planning Board
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Stephen Chaplin Chairman
Kaplan Hasanoglu, Member
Jimmy Kohkar, Member
Michael Costanza, Member

**Hopedale Planning Board
Meeting Minutes
Via Zoom Video Conference
June 1, 2022**

Recorded meeting can be found on the Town of Hopedale website under meeting videos.
The continuation hearing was opened at 7:00 pm.

Members that were present:

Stephen Chaplin, Chair
Kaplan Hasanoglu
Jimmy Kohkar
Michael Costanza
Christopher Chase

Applicants and Representatives:

Attorney Eli Lieno, Mark Allen, Ricardo Lima, John Burns

Guests:

Chris Leduc, Tim Watson, Elizabeth Callahan, Colleen Stone,
Heather Chace, Joyce Lovewell, Len Guertin, Denise Linder,
Rich Rinehart, Brian Poitras, Carole Mullen, Stephanie Thomas,
Mike Ledone, Lou Arcudi, Patrick Melle, Mario Lima, Mark
Bourbeau, Melani Gallante

Kaplan Hasanoglu made a motion to move approving the minutes of previous meetings to the end of the hearing, seconded by Mike Costanza. All were in favor.

Kaplan Hasanoglu, Planning Board member of the Master Plan Committee updated the board members on the status of the master plan. This committee work began in the fall of 2020 and is in the process of completing phase two which includes reviewing land use, open space and transportation. The third phase involves traffic, town services and facilities with the goals and recommendations of the committee. These drafts of phase two and three will be presented to the Planning Board for feedback and then implementation will begin. Discussion moving forward will be the role of the Planning Board and hiring a Town Planner, which the board feels is crucial.

Continuation of the Public Hearing for Hopedale Ridge Subdivision off of Overdale Parkway

Stephen Chaplin opened the hearing for the Hopedale Ridge Subdivision by reading the original hearing notice as requested by Attorney Eli Lieno as follows:

Residents of the Town of Hopedale and other interested persons please note that on May 16, 2022, at 7:00 pm, the Hopedale Planning Board will hold a public hearing virtually via Zoom to consider an application submitted by Black Brook Realty Corporation, Ricardo Lima, and the Hopedale Select Board, for approval of a Definitive Subdivision Plan for a 10-lot residential subdivision at Overdale Parkway, Assessor's Parcel ID Map 6, Block 4, Lot 0 and Map 6, Block 3, Lot 0. The proposed subdivision is shown on a plan set entitled "Hopedale Ridge A Definitive Subdivision Plan on Overdale Parkway in Hopedale MA, 01747", dated February 11, 2022, prepared by Allen Engineering & Associates, Inc., and described in Application materials. For more information in advance of the public hearing, contact the Planning Board by email at planningboard@hopedale-ma.gov. Copies of the Application are on file with the Town Clerk and may be viewed on the Planning Board section of the Town's website. All persons interested or wishing to be heard relative to the proposed subdivision are invited to participate in the hearing remotely at the designated time from their computer, tablet, or smartphone at Join Zoom Meeting.

Attorney for the applicants, Eli Lieno stated he has confirmed with Town Counsel that there is no conflict of interest in representing the applicants as he was a past member of the Hopedale Planning Board and this matter was not before the board during his tenure. He referenced MGL section 268A section 18 and he is ethically able to proceed. Chairman Stephen Chaplin also confirmed that this was presented to Town Counsel and agreed that Mr. Lieno is able to proceed.

Mr. Lieno reviewed the 10-lot subdivision plans for Hopedale Ridge along with the long history with two legal decisions that led to the 2021 decision that ratified the applicant's rights to the property. The lengthy application includes a full title run of the property. The town started acquiring the parcels in 1916 and completed the acquisition in 1945 that makes up the street. There was a town meeting article in 1985 which granted the easement rights to the Larkins and Coss, who were the previous owners. In 1999, a 42-lot subdivision was approved by the Planning Board and then overturned in 2002 in land court. This was then appealed and it upheld the land court decision. In 2021 the Board of Selectmen entered into an agreement to ratify the applicant's rights as evidenced in the right of the gift at the 1985 town meeting approval. This hearing presents the 10-lot subdivision which is zoning compliant.

The goals of the development plans are in line with the Planning Board mission which is "to provide for and guide for orderly growth and development of the community" as stated on the Planning Board website. The previous 42 lot subdivision may have overburdened the neighborhood but this subdivision has been pared down to 10 lots and the rights have been cleared up by town meeting vote. The 2021 town vote rememorized the land and improves this area with enhanced access to the parklands, additional parking and improve the passable roadway portion.

Mark Allen, of Allen Engineering reviewed the subdivision location at the end of Overdale Parkway and the existing right of way owned by the Town of Hopedale. Black Burn owns 20 acres and Mr. Lima owns 7 acres. The applicants are proposing giving back 15 acres to the Parklands. The agreement with the Select Board and the applicants plans that at the end of the process, Overdale Parkway is to be considered a public way with approval from a town meeting vote. There will be an adequate turn around at the end of the street and 12 parking spaces will be added for those who choose to access the Parklands at this location. The design is spelled out in the agreement with the same street scape. Culverts will be added and drainage basin will be created to collect stormwater. On site wells and septic systems have been designed. This project is in harmony with the Select Board agreement.

Mr. Lieno stated the applicants are aware of the resident's concerns and this project is much smaller than the previous 42 lots project. This project will improve the current road and add land to the Parklands.

Board Comments

Kaplan Hasanoglu was confused about the current status of the road from Freedom Street to the unpaved roadway and the desired to make it a town way. Mr. Lieno stated the town owns the land and was never dedicated as a public street which needs a town meeting vote requirement. The unpaved portion will be improved and the town would have the opportunity to vote to accept the entire road a public way.

Mr. Lieno also stated that they have received a letter from the Hopedale Fire Chief, Thomas Daige, and he has reviewed the plans for the subdivision, having no issue with public safety.

Kaplan Hasanoglu inquired that if the land is owned by the town, how does that change when it becomes a public way. Mr. Lieno said once it is a public way, it would be treated with all town services and homeowners would not be privately providing these services. It is a publicly owned private way and there are other spots in Hopedale under the same situation.

Mike Costanza asked if the homeowners pay for their own snow removal and this question is unclear at this time.

Jimmy Kohkar asked for details of the neighborhood which has 15 homes, and the unpaved portion of the road is protected by a gate. The unpaved portion is an existing road course but not up to road standards. They will improve the unpaved portion that abuts applicant's land. The new homes will be located beyond the current homes, beyond the gate.

Mike Costanza asked for more details regarding the Larkin gift. Mr. Leno stated that Overdale Parkway existed as the town started buying those lots back in 1916 through 1945. The Larkin gift is to improve the roadway in exchange for access to these lots because they need rights to go over the town land. The town owns the entirety of Overdale Parkway. The town is a neutral party in this application. Mike Costanza also inquired about the run off area. This area will be behind two of the lots with an easement. Mark Allen stated that this will not be on the annex property proposed to be given to the parklands. It will be on private property. Mike Costanza asked about the lot sizes and Mr. Allen stated they will be 40,000 – 50,000 square feet with 150 feet of frontage and does not conflict with the zoning bylaws. No variances will be required.

Jimmy Kohkar asked what the parking spaces were for and Mr. Leino remarked that the spots provide another entrance to the parklands through this publicly accessed road. The agreement with the Select Board was to have 4-5 spaces but the applicants will be adding 12 spots.

Chris Chase began a discussion regarding how long the proposed road is. Mark Allen's response was that the road already exists and end where Parklands begins. The newly paved area pavement ends at about 750 feet which will be paved and give access to these new lots. Chris Chase stated that at the corner of lot one to the end of the paved area is 1100 feet. Mark Allen mentioned the road is already 1600 feet. Chris Chase mentioned that because of the location of Salt Box Road, the current road is not a dead end. The bylaws (Rules and Regulations Governing the Subdivision of Land, Hopedale Planning Board, May 1976 section 4, #4) state dead end roads can only be 500 feet long. The historical property description for Larkin gift is listed throughout the deeded description as a road.

A portion of a letter from Katherine Klein, from KP Law was read and states the following regarding the legal right to access the proposed lots:

“You have requested an opinion whether the owners of a proposed 10-lot subdivision to be known as Hopedale Ridge, located on Overdale Parkway, have the legal right to sue the road as access to the lots. The proposed subdivision is owned by Black Brook Realty Cooperation, which is proposing to create 6 lots on the west side of Overdale Parkway, and Ricardo Lima, who is proposing to create 4 lots on the east side of Overdale Parkway. In my opinion, the consequence of a vote taken under Article 7 of the June 24, 1985 Special Town Meeting, accepting a gift to the Town of Overdale Parkway, commencing at Freedom Street, and running to the terminus of the road at the entrance to the Hopedale Parklands, the applicants have the legal right to access the proposed lots by Overdale Parkway”.

Stephen Chaplin also believes this is not creating new road. It is a pre-existing road.

Mr. Leno also read the following paragraph from Attorney Klein's letter:

“The agreement, in my opinion, merely memorializes the terms of the 1985 vote. It effectuates the 1985 vote – it does not create rights which did not already exist. The courts which addressed this property were not aware of the 1985 vote. The action of Town Meeting significantly changes the analysis of this matter. The applicants, in my opinion, have the right to use Overdale Parkway to access the 10 lots under consideration by the Planning Board”.

A lengthy discussion was held regarding where the Parklands begins and the rules and regulations regarding dead-end zoning. Stephen Chaplin stated that this portion of the road has never been paved but it has been graveled. Mark Allen remarked that it is clear that the 200-foot wide well maintained gravel access way is where Parklands begin.

Chairman Stephen Chaplin will address this concern specifically regarding the unpaved portion of the existing road to Town Counsel and tabled this issue.

This subdivision project is being peer reviewed by Graves Engineering.

Kaplan Hasanoglu continued the discussion regarding the 1985 Larkin gift and its relevance to the applicant's proposed project and Stephen Chaplin restated that the 2021 vote memorializes the gift from the 1985 vote. In reviewing the 1999 case, Town Counsel reported in the letter that the land court was unaware of the 1985 vote that gave the access rights.

Mark Boudreau, counsel for the Overdale Parkway Association, a group of abutting landowners, reviewed in length the 2004 court decision that stated the previous project did not have the rights to use the access road and ruled against the Town. He believes this land is Chapter 97 land and not a public way. There wasn't a gift due to article 33 of the 1985 town meeting and was ruled out of order.

Lou Arcudi, former selectmen and board member that voted to accept this in 2021, said it was clearly proven by legal counsel that this land is not Chapter 97. Title searches were extensively researched and it was never deeded to the Park Commission.

Stephen Chaplin will forward the letter from Mr. Boudreau to town counsel for rebuttal of the concerns he addressed.

Tim Watson, Water and Sewer Manager, inquired why his department was not briefed on this subdivision due to the stormwater concerns and the Chairman stated the requirements are to only officially advise the Board of Health. Graves Engineering will be reviewing all aspects of the plans including the stormwater. All documentation is available to the public on the Planning Board webpage.

Kaplan Hasanoglu made a motion to continue the hearing to July 6, 2022 with agreement from the applicant. Motion was seconded by Jimmy Kohkar and all were in favor.

The Planning Board also has two rezoning petitions to be heard on Friday, June 17, 2022 at 5 pm.

Mike Costanza made a motion to pass over approving the previous minutes, seconded by Kaplan Hasanoglu. All were in favor.

Mike Costanza made a motion to adjourn at 9:31 pm, seconded by Kaplan Hasanoglu. All were in favor.

Respectfully submitted,

Mary Arcudi
Planning Board Secretary