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**TOWN OF WILTON
PLANNING BOARD MEETING
Approved 6/18/08**

DATE: May 21, 2008

TIME: 7:30 P.M.

PLACE: Wilton Town Hall Courtroom

PRESENT: Wilton Planning Board Members: Chairman Jeff Kandt, Alec MacMartin, Matt Fish, Brian Sullivan, Neil Faiman (arrived late), Michael Cooley, Alternate Walter Zuber, Alternate Dave Holder, Board of Selectman Representative Bill Condra, NRPC Representative Steve Wagner, Recorder Heather Loewy Nichols.

The agenda was amended as follows:

- 1.) Minutes
 - April 19, 2008
 - April 30, 2008
 - May 7, 2008
- 2.) First Light Farm – Cluster Subdivision
- 3.) Perham Woods- Cluster Subdivision
- 4.) Lindquist – Subdivision Application
- 5.) Hillside of Wilton, LLC – Subdivision
- 6.) Gary & Betty Raymond – Subdivision Application
- 7.) Cadrain & Lusheer – Lot Line Adjustment
- 8.) Donald Slowik – Subdivision
- 9.) New Sparton Properties – Excavation Permit Renewal
- 10.) Pike Industries- Sign Application
- 11.) Schwab and Bluhm – Lot Line Adjustment
- 12.) Milan Daler – Pre-application
- 13.) Other Business
- 14.) Adjournment

Chairman Jeff Kandt opened the meeting at 7:30 p.m. and appointed Walter Zuber to sit on the Board for Neil Faiman.

1. Minutes

- April 19, 2008

A MOTION was made by Brian Sullivan and SECONDED by Jeff Kandt to approve the minutes of April 19, 2008 as written:

Voting: 2 ayes, all other members abstained as they were not at the meeting; motion carried.

- April 30, 2008

A MOTION was made by Brian Sullivan and SECONDED by Alec MacMartin to approve the minutes of April 30, 2008 with the following amendments:

- Page 2, Line 8; change “He summarized Dennis LaBombard’s remarks” to “He noted that Dennis LaBombard responded in writing and summarized his remarks”
- Page 2, Line 34; change “vehicle owned” to “vehicle on site”
- Page 2, Line 37; add “Matt Fish noted that the Planning Board is the regulatory body of the excavation site.”
- Page 2, Line 44; change “will not be visible” to “will not necessarily be visible”

- Page 3, Line 7; change “being flagrant” to “being flagrantly non compliant ”

Voting: 7 ayes; motion carried

Neil Faiman arrived and replaced Walter Zuber on the Board.

- May 7, 2008

A MOTION was made by Brian Sullivan and SECONDED by Alec MacMartin to approve the minutes of May 7, 2008 with the following amendments:

- Page 1, Present; add Michael Cooley
- Page 2, Line 16; change “set a precedence” to “set a precedent”
- Page 3, Line 19; change “dated 05-07-08 with respect” to “dated 05-07-08 to town counsel with respect”

Voting: 7 ayes; motion carried.

Continuations:

2. **Cluster Subdivision – First Light Farm, LLC** – Lots F-095-02,03,07,13,14 and 15 on Isaac Frye Highway in the Residential/Agricultural district. Applicant is proposing 22-unit cluster subdivision.

Ray Shea, from Sanford Surveying, explained that he received a review of the plans from Dennis LaBombard and responded with a revised set of plans but they have not received a review of the revised plans yet. He also noted that they are in the process of getting an access way for the well test sites and will be submitting a subdivision application to the state in the next week. He also requested a continuance.

A MOTION was made by Alec MacMartin and SECONDED by Bill Condra to continue the application to June 18, 2008.

Voting: 7 ayes; motion carried.

The Board requested that all the members get a copy of Dennis LaBombard’s reviews and the applicant’s response before the next meeting

3. **Cluster Subdivision - Perham Woods** – Lots B-020 on Dale Street in the Residential & Agricultural, Wetlands and Flood Plain District. Applicant is proposing a 29 unit cluster subdivision.

Chairman Jeff Kandt noted that the Board had received a request to continue the application.

A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to continue the application to June 18, 2008.

Voting: 7 ayes; motion carried.

4. **Subdivision Application – Al Lindquist** – for acceptance and approval of a lot line adjustment and creation of 3 new residential building lots (total 4) located on

1 Lyndeborough Center Road on Map/Lots B-026 and B-027 in the Residential/Agricultural
2 District.

3

4 The clerk explained that the Board had given this application a conditional approval
5 contingent on approval of the maintenance agreement by Town Counsel. She also
6 explained that Town Counsel had reviewed the language and responded with necessary
7 changes and the applicant responded with an amended document which Town Counsel
8 has responded to again. She explained that she felt that the Board needed to review the
9 current response from Town Counsel.

10

11 Chairman Jeff Kandt read the letter from Town Counsel.

12

13 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
14 **send a letter to the applicant to request his appearance at the next meeting and to**
15 **continue the application to June 18, 2008.**

16

17 **Voting: 7 ayes; motion carried.**

18

19 The Board requested that the letter from Town Counsel be given to each of the members

20 before the next meeting.

21

22 **5. Subdivision – Hillside of Wilton, LLC – Lot D-084 on Pead Hill Road in the**
23 **Residential/Agriculture District. Applicant is proposing to subdivide said lot into seven (7) lot**
24 **subdivision.**

25

26 *Alec MacMartin and Neil Faiman left the Board as voting members at 7:58 p.m. Walter Zuber joined the*
27 *Board in place of Alec MacMartin and Dave Holder joined the Board for Neil Faiman.*

28

29 Cappy DeMontigny appeared before the Board and stated that the NH Department of
30 Environmental Services has approved the wetland crossing and Dennis LaBombard is
31 reviewing the final plans, which have been revised since the last review, and hopefully all the
32 approvals will be finalized by the June meeting.

33

34 In response to a question from Chairman Jeff Kandt, David O'Hara, the surveyor on this
35 application, stated that easement notes on Sheet 2 have not changed. Chairman Jeff Kandt
36 explained that the Board has received direction from Town Counsel that the Board can not
37 accept a plan with the note written as it is. David O'Hara stated that if the easements have not
38 been described then they can not be put on the plan. Cappy DeMontigny explained that the
39 notes on the older plans state that the easements are vague and not described and that they
40 have included the easements from the old plans. Chairman Jeff Kandt explained that one of
41 the check list items states that the easements must be described. Cappy DeMontigny
42 explained that the easements are not bounded and they are vague and they have marked the
43 easements in the same place as they are marked on the 1988 and 1989 plans. He explained
44 that he is not saying that the D'Amores have no rights and he has notated the same locations
45 as the D'Amores did on their submitted plans and they do not encumber the subdivision. In
46 response to a question from Matt Fish, David O'Hara stated that he is certifying that, based
47 on any written record, the easements can not be located and he has done all the research and
is certifying as such. He then read a letter from Town Counsel in 1999. Chairman Jeff Kandt

1 suggested that the Board request Town Counsel's opinion on granting a waiver of the
2 checklist requirement directed Cappy DeMontigny to submit the request with justification.

3
4 Chairman Jeff Kandt noted that several letters had been submitted to the Board from David
5 Muller, attorney for Lou D'Amore. He explained that one of the letters states that part of the
6 justification for the waiver from the Zoning Board was to keep access down to one curb cut
7 but this plan has two curb cuts. Cappy DeMontigny explained that he wanted to put the
8 driveways off of Pead Hill Road and not off of Hillside Road but after meeting with Planning
9 Board they changed the configuration. He explained that he went back to the Road Agent and
10 the Fire Chief and they said that the additional cut on Hillside Road did not burden the town.
11 Steve Wagner noted that if the new configuration has less cuts then the configuration which
12 was brought to the Zoning Board then it should not affect the Zoning Board waiver.

13
14 Chairman Jeff Kandt noted that Note 17 states that there is no record of Old Stagecoach Road
15 and it is not located on any previous maps but if there are easements on this road they will
16 remain. Steve Wagner noted that to the best to his knowledge it is not a classified road way.
17 Cappy DeMontigny stated that there is no record of the road in Nashua or in Concord and
18 even if it was a Class VI road it only means the town has a right to pass and it does not
19 subdivide the lot. He stated that he can add the town rights if necessary but it does not do
20 anything to the subdivision. Chairman Jeff Kandt stated that the Board will send the new
21 plans to Town Counsel as well and see if the new note satisfies his concerns.

22
23 David Muller stated that he sent a letter to the Board that set forth in detail his objections and
24 he explained that the aerial plans he submitted do not depict the easements but rather shows
25 the physical ways that are not shown on the applicant's plans. He stated that he sent a
26 complete package to Town Counsel. He also discussed several other points he made in his
27 letter. The applicant made a rebuttal to his comments and noted that they are meeting with
28 the Board of Selectman on June 2nd to discuss offsite improvements and road names.

29
30 **A MOTION was made by Brian Sullivan and SECONDED by Matt Fish to continue the**
31 **application to June 18, 2008.**

32 **Voting: 7 ayes; motion carried.**

33
34 *Alec MacMartin and Neil Faiman returned to the Board as voting members at 8:59 pm.*

35
36 **6. Subdivision Application – Gary & Betty Raymond - Lot E10-2, 789 Gibbons Highway –**
37 **Applicant is proposing converting an existing duplex into a condex.**

38
39 Chairman Jeff Kandt explained that the applicant has requested a continuance.

40
41 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
42 **continue the application to June 18, 2008.**

43 **Voting: 7 ayes; motion carried.**

44
45 **7. Lot Line Adjustment – Kenneth Cadrain and Victor Lushear – Applicants are proposing that**
46 **0.105 acre be annexed from Lot D106-3, on Seagroves Street and Burns Hill Road, to Lot L05, on**
47 **Seagroves Street. A variance was granted (Case #10/9/07-4) on October 2007, with conditions.**

1
2 Dawn Tuomala, of Monadnock Survey, appeared before the Board and submitted a revised
3 waiver request.

4
5 Chairman Jeff Kandt read a letter from Sam Proctor which stated that it appears that
6 Seagroves Road is a private road and therefore someone must own it, and questioned
7 whether the Board can act on the road if they do not know who owns it. Dawn Tuomala
8 stated that all of the deeds describe the road East side to West side but do not mention an
9 owner. Alec MacMartin and Neil Faiman explained that prior to 1846 that any road which
10 had been in public use for a continuous amount of time became a public road and that some
11 of the records were burned in the late 1880's when the Town Hall burned. The Board
12 discussed the requested waivers, in particular the wetland/dry land count. Matt Fish
13 questioned existing drainage issues between the garage, not on this property, and the barn.
14 Dawn Tuomala stated that she added Note #11 regarding the building and Note #12
15 regarding the maintenance agreement and waiver of liability to the town. Alec MacMartin
16 and the Board discussed RSA 674:41 I d2 and requested that the Board get an opinion from
17 Town Counsel as to whether this situation will need a building permit.

18
19 Matt Fish questioned whether the new Shoreline Protection Act regulation of no more than
20 30% impervious area will affect this project. Dawn Tuomala explained that she spoke with
21 the Shoreline authorities and they said that since there is nothing being done outside, no
22 exterior construction on that side, no permit is needed unless the sewer and water pipes are
23 not in the place in the affected area by July 1st.

24
25 The Board discussed the request to waive the wet/dry areas and explained that they were
26 concerned that enough dry land will remain on lot D-106-003.

27
28 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
29 **approve the following waivers and to hold off on acting on the waiver request for**
30 **(6.3.m) locations of existing and proposed utility lines pending opinion from Town**
31 **Counsel.**

- 32 • Locations of existing buildings within 100 feet of property lines. (6.2.e)
33 • Locations of existing septic system leach fields within 100 feet of property lines.
34 (6.2.e)
35 • Existing and proposed topography. (6.3.d)
36 • Soil Boundaries and types. (6.3.f)

37 **Voting: 7 ayes; motion carried.**

38
39 **A MOTION was made by Neil Faiman and SECONDED by Alec MacMartin that the**
40 **Board accept a certification that there is in excess of one acre of dry land on lot D-106-**
41 **003, in lieu of a formal wet and dry land calculation, in the form of a note on the plan.**

42 **Voting: 7 ayes; motion carried.**

43
44 In response to a question from Alec MacMartin, Dawn Tuomala stated that the town does not
45 collect taxes from anybody with regards to Seagroves Road.

46

1 Bill Condra noted that at the last Selectman's meeting they resolved that the town is no
2 longer accepting any new roads.

3
4 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
5 **continue the application to June 18, 2008.**
6 **Voting: 7 ayes; motion carried.**

7
8 8. **Subdivision – Donald Slowik** – Applicant is proposing to subdivide Lot B 31-3, located on Pead
9 Hill Road, into three single family lots.

10
11 Chairman Jeff Kandt noted that the applicant is requesting a continuance.

12
13 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
14 **continue the application to June 18, 2008.**
15 **Voting: 7 ayes; motion carried.**

16
17 9. **Excavation Renewals- New Spartan Properties, LLC** – Applicant is proposing renewal of
18 Excavation Permits for Lot F-122, M-059 off Abbot Hill Road and Map/Lot F-173, E-022, E-023, E-
19 017 and E-021 off Route 31 South

20
21 Tom Quinn appeared before the Board and noted that at the April 30th meeting he and the
22 Board had a discussion of the barriers and since he has been building and rebuilding berms
23 and building fences. He explained that the he believes that the way the motion was made and
24 written into the minutes of April 30th was misleading and he feels that it should really say
25 “when a berm is used in lieu of a fence.” He also noted that he put in 1700’ of fence and that
26 he found a new type of fence, which he is hoping to have some better luck with.

27
28 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
29 **reconsider the motion made at the April 30th meeting.**
30 **Voting: 7 ayes; motion carried.**

31
32 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to amend**
33 **the motion made at the April 30th to add “when a berm is used in place of temporary**
34 **fencing” to the beginning of the motion.**
35 **Voting: 7 ayes; motion carried.**

36
37 Tom Quinn explained that Lot E-022 has a major slope and he wanted to get the Board's
38 opinion on modifying the berm statements on the plans. He explained that there is a note on
39 the plans for Lot E-022 that says that the marked area will not have the trees moved until the
40 last thing as it was intended for the that area to be the last slope to be reclaimed. However he
41 would like to excavate that portion first as he thinks that it will be more aesthetically pleasing
42 from the road. Tom Quinn noted that he can not reclaim the area until he takes the trees out.
43 Matt Fish stated that he would have to see it in person to make an educated decision. Tom
44 Quinn noted that the Planning Board did not ask for the note rather they volunteered it to
45 help cut down the view from 101. Matt Fish read RSA 155 E:5 which requires that trees be
46 replanted where they were removed if the area is visible from a public way. Alec MacMartin

1 and Tom Quinn discussed the progression of excavations. In response to a suggestion from
2 Matt Fish that less acreage be opened in other areas if this area were to be opened up, Tom
3 Quinn noted that this would only open up 100' extra. After more discussion the Board
4 decided to hold a site walk at 5:00 p.m. on May 23rd and meet at the sign in trailer.
5

6 **A MOTION was made by Alec MacMartin and SECONDED by Brian Sullivan to**
7 **conditionally approve, based on a successful site inspection of the berms, signs and**
8 **reflectors, the excavation permit for Lots F-173, E-022, E-023, E-017 and E-021 until**
9 **June 1, 2009.**

10 **Vote: 7 ayes; motion carried.**

11
12 **A MOTION was made by Matt Fish and SECONDED by Alec MacMartin to approve**
13 **the excavation permits for Lots F-122 and M-059 until June 1, 2009.**

14 **Vote: 7 ayes; motion carried.**

15
16 10. **Sign Permit – Pike Industries – Applicant is proposing placing a non-illuminated, 15 SF sign on**
17 **the corner of Route 31 and Stoney Brook underneath the existing PEP Direct sign.**

18
19 The Board reviewed the application for the sign. Matt Fish noted that the presented
20 application is better than the last attempt.

21
22 **A MOTION was made by Brian Sullivan and SECONDED by Alec MacMartin to**
23 **accept the application.**

24 **Voting: 7 ayes; motion carried.**

25
26 **A MOTION was made by Matt Fish and SECONDED by Brian Sullivan to approve the**
27 **application.**

28 **Voting: 7 ayes; motion carried.**

29
30 *New Applications:*

31 11. **Lot Line Adjustment – Schwab and Bluhm – Applicants are proposing dividing up Lot F-**
32 **149-001-002 and adding .7340 acres of this lot to Lot F-150 and 8.073 acres of this lot to Lot**
33 **F-149-01-001.**

34
35 Dawn Tuomala appeared before the Board and explained that this lot is on Captain Clark
36 Road and a few years ago it was subdivided out of a 15 acre lot. She noted that Attorney
37 Taft is the attorney for the Bluhms, the owners of Lot F-150. She explained that the
38 Schwabs own Lot 149-1-1 and 149-1-2 and they would like to dissolve Lot 149-1-2 by
39 dividing in between the Bluhm's lot and the Scwab's lot. She also presented a list of
40 waivers she is requesting. Dawn Tuomala, the Board, and Steve Wagner entered into a
41 discussion about whether this lot fell into the well head protection area as Steve Wagner
42 has suggested. Dawn Tuomala stated that she talked to the state and was told that there
43 are no GAA or GA1 wellheads in Wilton which would require the 4000' area of
44 protection suggested by Steve Wagner. She further explained that in order for the
45 wellheads to obtain that classification the town has to apply for a request for
46 reclassification. The Board stated that they would like to see a note which states that any

1 change in the driveway will need approval from the Planning Board and the access on the
2 gravel drive is restricted.

3
4 **A MOTION was made by Neil Faiman and SECONDED by Alec MacMartin to**
5 **grant the following waivers:**

- 6 • Locations of existing buildings within 100' of property lines (6.2.e)
- 7 • Locations of existing septic system leach fields within 100 feet of property lines
8 (6.2.e)
- 9 • Road or driveway intersections within 200' pf property lines (6.2.g)
- 10 • Area of proposed lots – wet, dry and total (6.3.c) Request waiver for calculation
11 of wet and dry areas.
- 12 • Existing and proposed topography (6.3.d)
- 13 • Soil boundaries and types (6.3.f)
- 14 • High Intensity soil survey, if required (6.3.g)
- 15 • Locations and dimensions of buildings (6.3.i)
- 16 • Locations of existing and proposed utility lines (6.3.i and 6.3.m)
- 17 • Locations of all water bodies, watercourses, wetlands, rock/ledge outcrops or
18 other significant features (6.3.h)

19 **Voting: 7 ayes; motion carried.**

20
21 **A MOTION was made by Alec MacMartin and SECONDED by Neil Faiman to**
22 **accept the application.**

23 **Voting: 7 ayes; motion carried.**

24
25 **A MOTION was made by Neil Faiman and SECONDED by Alec MacMartin to**
26 **conditionally approve the application contingent upon the addition to the plan of a**
27 **note stating that any change in the driveway requires Planning Board approval and**
28 **a note regarding the restricted access on the gravel drive.**

29 **Vote: 7 ayes; motion carried.**

30
31 *Pre-Applications:*

32 12. Milan Daler - Center for Anthroposophy

33 Milan Daler appeared before the Board and explained that he is part of a small non profit
34 organization at High Mowing and they are in the process of purchasing the Color Shop
35 building and business and his funders need to know if he will require a site review. Milan
36 Daler stated that currently upstairs there is a Health Practitioner's office and an apartment
37 and they are planning on putting their offices upstairs and downstairs they will continue
38 to have the Color Shop as it is now and then they would like to incorporate more Waldorf
39 type items. In response to questions from the Board, he stated that they will not be
40 changing any wires or walls. The Board stated that they felt that a site review is not
41 required based on the representation given.

42
43 13. Other Business

44 a. PSNH

45 Dave Crain, arborist from PSNH, came before the Board and stated that previously he
46 and the Board agreed upon trees to be taken down and his crew took down one additional

1 tree. He explained that once they agreed on the trees to be taken down he gave the list to
2 Asplundh and local crews were informed of the limited cut list however there were a few
3 trees that were too tall for the buckets that were on site. When the 75' bucket was brought
4 in, the specific cut list was not communicated to the foreman and he noticed a Sugar
5 Maple with decay, so he contacted the landowner and the landowner gave him permission
6 to cut the tree. The tree was removed and it was more decayed then the tree which was
7 approved for removal. Dave Crain submitted pictures to the Board of the mistakenly cut
8 tree. He apologized for the error and explained that there is now a 70' bucket which
9 works in this area so the local crew will be doing any work. He stated that planting
10 another tree is not practical but he feels that PSNH should do something to make the
11 situation right. He noted that on Wilson Hill at the junction of the entrance to Camp Ann
12 Jackson there is wood and debris on the side of the road and he suggested that PSNH
13 could clean up the area at their expense. Neil Faiman stated that most important to him is
14 that the issue has been analyzed and corrected. The Board agreed that the offer to clean
15 up seemed fair. Dave Crain noted that he will have to talk to the land owner to be sure
16 that they agree to the wood removal.

17
18 b. Miscellaneous

- 19 - The Board discussed wellhead protection and an updated map they were
20 expecting from the water commissioners.
- 21 - **A MOTION was made by Alec MacMartin and SECONDED by Bill**
22 **Condra to confirm that Dawn Tuomala is an alternate on the Board.**
- 23 - **Voting: 7 ayes; motion carried.**
- 24 - The Board discussed having packets prepared for them by the Clerk a week in
25 advance with all the relevant paperwork that has been turned in over the
26 previous month.

27
28 14. Adjournment

29 **A MOTION was made by Jeff Kandt and SECONDED by Bill Condra to adjourn.**
30 **Voting: 7 ayes; motion carried.**

31
32 Chairman Jeff Kandt declared the meeting adjourned at 11:37 p.m.

33
34 Respectfully Submitted,
35 Heather Loewy Nichols
36 Wilton Planning Board Clerk
37
38