

## **Topsfield Planning Board**

September 2, 2008

Chairman Winship called the meeting to order at 7:30 PM. Board members present were Robert Winship, Janice Ablon, Gregor Smith, Ian deBuy Wenniger and Jonathan Young. Roberta Knight, Community Development Coordinator was also present.

**Visitors:** David Varga, Selectman Martha Morrison, James Evans, Tom Willey, Amy Carter, Rob Baker, Amy Carter, Marilyn Linfield, Matthew Foley, Joe Geller, Michael Kippenberger, Greg Hochmuth.

**49 Rowley Road:** Consultant Engineer David Varga gave the Board a status report concerning the installation and implementation of stormwater and erosion control measures on the site by the developer. The storm water plan is working to contain the storm water and control any erosion on the site. The recharge system at the bottom of the hill is working as designed. The Board also requested that Mr. Varga provide them with a proposal for continued monitoring at the site during construction. The foundation is in and a building permit has been issued. It was the consensus of the Board that a ½ inch rain event based on the DPW rain gauge would trigger an inspection, and progress inspections should occur once per month.

**37 Gail Street:** David Varga gave the Board a status report concerning the status of the infrastructure and grading on the site. General contractor James Evans and grading contractor Tim Willey also provided information to the Board. In summary, the status is as follows:

- Underground electrical lines have been installed to service both the old and the new houses
- The two remaining pines were taken down to install underground electrical
- Presently loaming area, and hydro seeding by Friday
- Roadway pavement based on five coring samples for topcoat will be 2 ½ inches for the circular portion and 1 ½ inches for the remainder of the driveway
- Detention basin is not completed; once site is 75% stabilized, the invert 6" above the bottom of basin

At this time, Rob Baker initiated a discussion concerning the replacement of trees along the lot line with the Carney property at 39 Gail Street. He did not agree with the proposed replacement offer that had been made by the contractor to use arborvitae. An alternative discussed was the replacement of like kind white pines. Mr. Baker preferred deciduous trees. It was the consensus of the Board to continue the discussion on site on Thursday morning September 4<sup>th</sup> and to request Dave Bond who also serves as tree warden to be present. The Board would also join the Conservation Commission at the site on Saturday, September 6<sup>th</sup> to review wetland enforcement issues.

**426 Boston Street:** At 8:25 PM, Chairman Winship called to order the public hearing to consider the application of Matthew Foley for premises located at 426 Boston Street, Unit 426A requesting a special permit pursuant to Article V, Section 5.04 and Article III, Table of Use Regulations Section Retail and Service, Sub-section 4.24 Fitness and Recreation Sports Facilities to allow said use. Clerk Janice Ablon read the notice for the record.

Applicant Matthew Foley appeared before the Board and explained that his facility provided strength and endurance training to high school and college athletes based on the requirements for individual sport program. There would be no more than six to eight individuals to a training session. The discussion then centered on the programs outdoor activity concerning the flipping of tires for strength training. Mr. Foley noted that he has acquired additional insurance per the Business Park Association's request. Joe Geller representing the trustees acknowledged that terms for the outdoor activity have been agreed upon, and presented the Board with a letter of support for this application. Mr. Kippenberger a direct abutter on North Street objected to the 6:00AM start time for the outdoor activity due to the level of noise and noted that parameters had been established as part of the original special permit for the Park. After further discussion, it was agreed that no outdoor activity would commence prior to 7:00AM. Mr. Kippenberger had no problem with the 7:AM start time.

Member Gregor Smith made the motion to approve the granting of a special permit pursuant to Article V, Section 5.04 and Article III, Table of Use Regulations Section Retail and Service, Sub-section 4.24 Fitness and Recreation Sports Facilities to allow said use at 426 Boston Street to Matthew Foley; further, the permit is subject to the condition that no outdoor activity shall commence prior to 7:00AM; seconded by Clerk Janice Ablon; so voted 5-0.

**94 South Main Street:** At 8:50PM, Chairman Winship called to order the public hearing to consider the special permit application of Timothy Collins, represented by N.D. Landscaping Inc., for the removal and replacement of the stone wall located at 94 South Main Street, a designated scenic road. Clerk Janice Ablon read the notice for the record.

Greg Hochmuth from the Neve-Morin Group joined the Board and noted that he had been requested to represent N.D. Landscaping since owner Nick Dibenedetto was unable to attend. Unfortunately, Mr. Hochmuth had little information to relate except that the scope of the project was the replacement of the existing 400-foot stonewall. There ensued a discussion relative to the design of the wall under construction without the issuance of a permit. It was the consensus of the Board that all members would visit the site and view the portion of the replacement wall that had been erected. Both Gregor Smith and Ian deBuy Wenniger noted their displeasure of the use of mortar in construction of the replacement wall. The public hearing was continued to the September 16<sup>th</sup> meeting at which time it was requested that a design plan which is a requirement of the application be submitted to the Board.

**Bills:** The Board signed and approved bills for BSC engineering consulting services in the amount of \$6,958.50 for the Rowley Road project, and in the amount of \$3,075 for the 37 Gail Street project.

**Minutes:** Member Ian deBuy Wenniger made the motion to approve the minutes of August 5, 2008 as written; seconded by Member Gregor Smith; so voted 4-0. Clerk Janice Ablon abstained.

**Discussion on By-Law Definition of Restaurant:** At this time, Selectman Martha Morrison joined the Board to inform the Board that an issue has arisen related to the permitting of the new Topsfield Sweet Shoppe housed in Topsfield Station as a restaurant. The current definition for restaurant in the By-Law is broad. The By-law states that a restaurant is “An establishment offering food and beverages for consumption on the premises and for take-out services.” The NAICS code categorizes restaurants into full service and limited service restaurants with further sub-categories. The Sweet Shoppe would fall under Snack and Beverages Bars as an ice cream parlor under the Code. Member Ian DeBuy Wenniger also noted the issue of “fast food” restaurants relative to Route 1 that was brought up at the zoning information meetings last spring. It was the consensus of the Board to do some follow up research on the matter relative to a possible By-Law change.

The meeting was adjourned at 9:58PM.

Respectfully submitted,

Roberta M. Knight  
Community Development Coordinator