

PLANNING BOARD MEETING
SEPTEMBER 17, 2014

PRESENT: Ed Dekker, Chairman, Tim Jones, Bert Hamill, Joanne Meshna

The meeting was called to order at 7:30 p.m. at the Town office. Joanne was appointed as a full member to fill the vacancy of Liz Freeman for this evening's meeting.

7:30 p.m.: San-Ken Homes, Inc. - Continuation of hearing for modification of approval for Oakwood Commons: The applicant last appeared before the Board on September 3, 2014.

Attorney Michael informed the Board that the applicant and current homeowners on Oakwood Common are continuing to move ahead on the homeowners' association agreement. The bylaws have been revised on the suggestion of the homeowners.

Attorney Michael submitted a letter to the Board in which San-Ken offered the following: 1) complete formal organization of the homeowners' association; 2) expend the sum of \$8,590 to sealcoat the existing private road and to repair potholes and cracks; 3) repair any construction damage to the road; 4) pay 9/16th of the cost of a top coat to the road if the homeowners decide on that action; 5) prepare an amendment to the approved plan for execution by the Board and recording at the Hillsborough County Registry of Deeds; 6) have 8 votes at any duly called meeting of the Association members to prevent unilaterally adopting or changing provisions.

Attorney Kinyon read a draft motion he had prepared for the Board's consideration. The motion was distributed to the public. Mary Ann Hughes, 49 Old Beaver Road, questioned the "Agreement and Release" and Attorney Kinyon responded it is a document filed at the Registry at Deeds which relieves the Town from liability on the private road. This document would be for the new homes that are built on the road. Ray Christian, 22 Old Beaver Road, questioned if the language in #1. "would always remain private" prevented the homeowners from trying to get the road approved by the Town. The Board responded that it would not preclude the Selectmen laying out the road or submitting a warrant article for acceptance of the road.

Attorney Michael stated his concern for number 3 of Attorney Kinyon's motion, in particular "completed to the satisfaction of the Town's road agent" and his desire to get the Town out of the road business. He submitted an amendment to the motion which replaces the above with "completed or paid for in full by San-Ken Homes, Inc. with evidence of such payment submitted to the Town."

The public hearing was closed at 8:00 p.m. and the Board deliberated.

Bert disagreed with Attorney's Michael's amendment and stated the need for some kind of independent quality control and the best quality control is with the Road Agent. He also referred to #6 of Attorney's Michael's letter and his understanding that he was going to provide parity between San-Ken and the other homeowners. Attorney Michael stated he had made an error in the numbers. Ed noted that it was a private road that the homeowners' association will be responsible for, and questioned if the Road Agent had to approve the work. Bert responded that the responsibility of the Planning Board is to provide the inhabitants of New Ipswich with the best roadways, drainage systems, etc. and to have the Road Agent inspect and report should not be a big deal. Tim questioned what the Road Agent was going to look at and Bert responded he is going to look at the overall condition of the road and make a determination. Tim did not think it was necessary for the Road Agent's input as everyone has a strong incentive to get the work done

At 8:05 p.m. Ed reopened the public hearing. Mr. Christian stated the Road Agent provides an unbiased position and he should review the roadwork.

Joanne stated she agreed with Bert. The Planning Board started out with the road and it would be good closure for the road to have the Road Agent go out and give his ok on it.

Kenny Lehtonen stated the road work is to be done Wednesday, Thursday and Friday of next week depending on weather. The Road Agent could inspect on Friday. The Board agreed to recommend to the Board of Selectmen the issuance of two building permits immediately. Attorney Kinyon suggested revising the third paragraph of the motion to state no more than two building permits for the 9 unimproved lots shall be issued until the improvements are completed or paid by San-Ken Homes, Inc. with evidence of such payment submitted to the Town. Thereafter, prior to issuance of additional building permits or any certificates of occupancy for the 9 unimproved lots, the owner or owners of the lots shall execute and cause to be recorded an "Agreement and Release" acknowledging the road within the subdivision is and will remain private, and releasing the Town from any obligation to maintain the private road. The Board replaced the section "are completed or paid by San-Ken Homes, Inc." with "are completed to the satisfaction of the Road Agent."

Under improvements to be done in the motion, the Board inserted the following: fix cracks by cleaning and filling, seal coat the entire road and repair all potholes.

Ed made a motion to approve Attorney Kinyon's motion as amended. Bert seconded the motion and it passed unanimously. The final motion is attached to the original minutes.

Ms. Daley noted that the process revealed a lack of policies and procedures by the Town to help in their situation and asked the Board to work on corrections. Ed responded they need to talk to their State Representative as it would involve a change in the bankruptcy law. Mr. Lehtonen stated that when a bond is running out or is too low, some action should be taken. Ed responded that the Planning Board

has made changes in procedures including putting in the allowed 10% increase in bond amounts per year, and roads must be completed, including the top coat, in 3 years.

8:25 p.m.:

Joanne informed the Board that the State DOT had approved a new driveway for the Judythe Carson subdivision on Ashburnham Road which moves the driveway 24 feet to the south. The Board was in agreement there was no action for them to take.

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Joanne Meshna
Land Use Manager

I move approval, with certain clarifications and conditions, of the August 14, 2014 letter application filed by San-Ken Homes, Inc., for modification of the prior subdivision approval for the subdivision known as "Oakwood Commons" previously approved by the Planning Board, with conditions, by Notice of Decision dated July 11, 2005.

The following clarifications and conditions are part of this motion and approval:

All 6 prior conditions of the July 11, 2005 subdivision approval are replaced in their entirety with the following clarifications and conditions:

1. The original subdivision approval was on the condition that the road to be constructed within the subdivision would always remain private, and the Town would have no liability for maintenance and upkeep of the road. The road, as built since the original subdivision approval, is private and will remain a private road.
2. The existing road constructed within the subdivision (with one course of asphalt), is satisfactory as a private road, with no second asphalt course required, subject to the following improvements to be performed within 90 days from the date of this approval by and at the expense of the owner of the 9 remaining unimproved lots in the subdivision (presently San-Ken Homes, Inc.):
 - fix cracks by cleaning and filling
 - seal coat the entire road
 - repair all potholes
3. No more than 2 building permits for the 9 unimproved lots shall be issued until the improvements are completed to the satisfaction of the Town's Road Agent. Thereafter, prior to issuance of additional building permits or any certificates of occupancy for the 9 unimproved lots, the owner or owners of the lots shall execute and cause to be recorded an "Agreement and Release" acknowledging the road within the subdivision is and will remain private, and releasing the Town from any obligation to maintain the private road.
4. No further security will be required by the Planning Board for any future road or infrastructure improvements.
5. A copy of the written decision of the Planning Board approving this modification and listing these conditions shall be filed with the Hillsborough County Registry of Deeds with the prior approved subdivision plan.