



## NORTHBRIDGE PLANNING BOARD

### MINUTES

Tuesday, September 16, 2014

George Murray, Chairman welcomed the Planning Board's newest member Pamela Ferrara (joint-appointment by the Board of Selectmen); Mr. Bechtholdt noted the Ms. Ferrara was sworn-in by the Town Clerk. Mr. Murray called the meeting to order at 7:00PM; Brian Massey and Mark Key were also in attendance. R. Gary Bechtholdt II, Town Planner was present with Barbara Gaudette and Cindy Key, Associate member absent.

The following members of the public were in attendance: Jeff Howland (JH Engineering Group); Stephen O'Connell (Andrews Survey & Engineering); Joseph Marinella (J&F Marinella Development); Laura Hanny; and Sara Nadeau.

#### I. CITIZENS FORUM

None

#### II. FORM A

None

#### III. ZONING AMENDMENT –PUBLIC HEARING

§173-20 [Table of Height & Bulk Regulations]: Increase maximum building height allowed w/in the Industrial zones & Increase number of building stories permitted w/in the Industrial zones

Mr. Bechtholdt indicated that the notification requirements for the zoning amendment article had been satisfied. The Planning Board opened the public hearing, waiving the reading of the public hearing notice: In accordance with M.G.L. Ch. 40A Sec. 5, the Northbridge Planning Board will hold a public hearing on Tuesday, September 16, 2014 at 7:05 PM in the Selectmen's Room of the Northbridge Memorial Town Hall, 7 Main Street, Whitinsville, MA to consider zoning amendment article to the Northbridge Zoning Bylaw Section 173-20 [Table of Height & Bulk Regulations] (1) to increase the maximum permitted height in the I-1 & I-2 (Industrial zones) from 30 and 45-feet respectively to 60-feet and (2) to increase the maximum permitted height (stories) in the I-1 & I-2 (Industrial zones) from 2 and 3 stories respectively to 4 stories. A copy of the proposed zoning amendment article and supportive documentation are on file at the Office of the Town Clerk (7 Main Street –Town Hall) and the Community Planning & Development office (14 Hill Street –Town Hall Annex) and may be reviewed during normal office hours. The purpose of this hearing is to provide an opportunity for public comment; anyone wishing to be heard should attend said hearing at the time and place designated.

Mr. Murray briefed the Board regarding correspondence received from the Office of Community Planning & Development dated July 31, 2014 regarding height and bulk requirements of neighboring municipalities and explained the intent of the zoning bylaw is to increase Northbridge's height (maximum) from 30-feet to 60-feet within the Industrial –One zone and from 45-feet to 60-feet in the Industrial –Two zone, as well as increase the number of stories to 4 within both the Industrial –One and Industrial –Two zones.

Mr. Bechtholdt provided a brief overview regarding the intent of the zoning amendment and suggested that the current height and bulk requirements may be too restrictive and potentially a limiting factor for future economic development opportunities within the Industrial zoning districts in town.

Planning Board noted receipt of letter dated September 05, 2014 from the Inspector of Buildings and memorandum dated September 05, 2014 from the Fire Chief both in favor and noting its support of the zoning amendment article; increasing the height permitted in the Industrial zones and the number of stories allowed.

Mr. Key was pleased to see communications from the Fire Chief and Building Inspector. Having no additional comments from the Planning Board, Chairman Murray sought input from the general public; having none the Planning Board closed the public hearing. *Upon motion duly made (Massey) and seconded (Key) the Planning Board voted (4-0) to recommend zoning article to amend the Northbridge Zoning Bylaw Chapter 173 Subsection 173-20 [Table of Height & Bulk Regulations] to (1) increase the maximum height permitted within the Industrial-One and Industrial-Two Zoning Districts from 30-feet and 45-feet (respectively) to 60-feet and (2) increase the maximum permitted stories within the Industrial-One and Industrial-Two Zoning Districts from 2 and 3-stories (respectively) to 4-stories.*

Mr. Bechtholdt advised the Board that he would prepare a letter for the Town Clerk detailing its vote with a copy of same to be provided to the Board of Selectmen and the Finance Committee (& Town Moderator).

Mr. Bechtholdt noted that Chairman Murray will attend the Finance Committee meeting of September 17, 2014 to offer the Planning Board's recommendation in preparation for the Fall Annual Town Meeting. The Planning Board shall provide its report on the zoning amendment article at the Fall Annual Town Meeting scheduled for Tuesday, October 28, 2014.

#### **IV. HEMLOCK ESTATES -REVIEW/DECISION**

Subdivision Status (Phase I, II & III): Construction Schedule; Conditions of Approval & Performance Bond/Lot Release

Mr. Murray welcomed Stephen O'Connell (Andrews Survey & Engineering, Inc.); Mr. Bechtholdt noted the following correspondence included in the Planning Board packet: subdivision phasing and layout plan for Hemlock Estates; construction meeting notes from September 03, 2014; letter dated September 03, 2014 from the Whitinsville Water Company; email communication from JH Engineering Group, LLC (Board's consulting engineer) received August 25, 2014; email communication from the Sewer Superintendent received September 09, 2014; email communication from the Director of Public Works received September 09, 2014; construction schedule dated April 22, 2014 from J&F Marinella Development, Inc.; copy of Planning Board Certificate of Approval dated June 11, 2008 for Hemlock Estates, definitive subdivision; copy of Planning Board Special Permit (Flexible Development) dated June 11, 2008 for Hemlock Estates; copy of Planning Board decision dated November 25, 2009 concerning the looping of the waterline; and copy of the Lenders Agreement (Form K) for Phases 1&2 (in the amount of \$172,000.00), as well as, copy of (updated) construction schedule received September 16, 2014; letter dated September 12, 2014 from Andrews Survey & Engineering, Inc.; water main connection plan & profile prepared by Andrews Survey & Engineering, Inc. dated September 12, 2014 regarding request for lot release, bonding and construction changes; Whitinsville Water Company letter dated September 15, 2014; and JH Engineering Group, LLC report dated September 11, 2014.

Mr. Bechtholdt reminded Board members that Pine Knoll, a Senior Living Development may be considered a separate project identified as Parcel F within the Hemlock Estates subdivision. Mr. Bechtholdt briefed the Board on the overall phasing of the project (Phases 1-3).

Stephen O'Connell (Andrews Survey & Engineering, Inc.) on behalf of J&F Marinella Development Corporation explained that their primary objective before the Planning Board is to request for release of lots (Lots 14–20, 23–28 & 31), suggesting Lots 21 & 22 be held (located at the end of Fir Hill Lane) until such time the water line loop to Adam's Circle is completed. Mr. O'Connell continued, noting they would also like the Planning Board to formalize construction changes described in correspondence dated September 12, 2014.

Mr. O'Connell reviewed with the Planning Board construction change requests: grass strip along Hemlock Street and Fir Hill Lane; sidewalk along Sutton Street; looping of the waterline; reconstruction of Smith and Gendron Street; emergency access road; and the \$10,000 recreation contribution.

Jeff Howland (JH Engineering Group, LLC) noted the construction change request specific to Smith and Gendron Street would also require amending conditions of approval D16 and D17; Mr. O'Connell concurred.

Mr. Bechtholdt asked Mr. O'Connell if he has confirmed whether or not the \$30,000 monetary contribution for improvements to Sutton Street/Providence Road intersection had been satisfied (condition of approval A31); Mr. O'Connell will review and provide the Board with confirmation.

Mr. Howland questioned if Lot 31 had previously been released; Joseph Marinella (J&F Marinella Development) confirmed that Lot 31 has already been released from the Covenant; Mr. Bechtholdt confirmed same and suggested that Mr. O'Connell review the file in the Planning office or view the Registry of Deeds records on-line for the recorded release of lots.

Mr. O'Connell noted receipt of JH Engineering Group, LLC report dated September 11, 2014 concerning construction estimates and has no objections with the proposed amount (\$255,213.75). Mr. Bechtholdt asked Mr. Howland if he has talked with the Sewer Superintendent and if he is aware of any ongoing concerns specific to the sewer pump station that should be or may be included in the construction cost estimates. Mr. Howland advised the Board that he reached out to Mr. Kuras, Sewer Superintendent and received an email noting concerns with the sewer manholes within Phase 3, but nothing specific to the sewer pump station.

Mr. Bechtholdt noted the only thing he recalls being brought forth by the Sewer Superintendent during the construction meeting (September 03, 2014) was the sequencing of running the pump. Mr. Marinella explained that he has had conversations with Mr. Kuras, noting he is not looking for street acceptance at this time and will address (timing pumps, etc.) final punchlist items specific to the pump station prior to road acceptance. Mr. Howland indicated that it was his understanding that the major issues identified by the Sewer Department have been addressed but was not sure if there are any lingering minor issues, which likely would be addressed prior to acceptance.

Mr. Bechtholdt offered that the Planning Board separate out the three (3) items requested (and detailed in September 12, 2014 Andrews Survey & Engineering letter): (1.) performance bond, (2.) lot release and (3.)

construction changes, suggesting the Board review the construction changes first as far as process and procedures.

Mr. Murray briefed the Board on the construction changes for the elimination of the grass strip; Mr. Bechtholdt advised the Planning and the Applicant/Engineer that in order for the Planning Board to act on the request the matter should be included on the agenda for consideration, unfortunately this letter (requests) was received today and was not included on the agenda. Mr. Bechtholdt noted the Planning Board is scheduled to meet next again in one week (September 23, 2014); the Board should include construction change requests on the next agenda.

Mr. Bechtholdt also explained to the Planning Board and the Applicant/Engineer that the request to eliminate the required improvements to Smith and Gendron Street should not be considered a construction change and should be considered as part of formal modification with abutter notification (public meeting notice) similar to the process undertaken to alter the looping of the water line to Adams Circle (November 2009). Mr. Bechtholdt reminded the planning Board and the developer that they need to make sure everyone is on the same page moving forward (including abutters), so once the subdivision is completed and the roadways within the subdivision are readied for street acceptance everyone is aware of what was required of the development prior to street acceptance.

Mr. Bechtholdt recommended that a public hearing be required for consideration of the elimination of the reconstruction of Gendron Street and Smith Street; Mr. Marinella had indicated that abutters in the past had expressed concerns with the proposed widening, etc. of Smith and Gendron Street and noted because they are no longer looping the water line through Smith and Gendron Street the improvements are no longer necessary. Mr. Bechtholdt reminded Mr. Marinella the other reason to have the roadways (Smith & Gendron) improved was to prepare them for street acceptance in conjunction with the acceptance of Hemlock Street and Fir Hill Lane; noting in order to go from Sutton Street (public way) Gendron Street (currently an unaccepted public way) needs to be accepted (at least a portion of) in order for Hemlock Street to be accepted as a public way.

Planning Board agreed to include remaining construction change requests on its next meeting scheduled for Tuesday, September 23, 2014. Mr. Bechtholdt noted there are a number of other conditions of approval that may still need to be satisfied or reviewed and discussed by the Planning Board before the release of lots within Phase III. Mr. Bechtholdt indicated that he had asked the Applicant/Engineer to provide the Planning Board with a detailed narrative describing specifically whether or not they have satisfied all conditions of approval (for the definitive and special permit approvals).

Mr. Marinella suggested that the Planning Board will have a bond in place to secure compliance and guarantee that all conditions of approval are satisfied before he seeks a bond reduction; Mr. Bechtholdt understood this however noted a number of the conditions of approval that need to be addressed right now are those that need to be satisfied prior to lot release of Phase 3. Mr. Bechtholdt explained to Mr. Marinella that he needs to address the X, Y and Z's (conditions of approval) before lot release or he needs to review the X, Y and Z's with the Planning Board to determine what needs to be done prior to lot release and what may be delayed.

Mr. Bechtholdt suggested that he (Mr. Marinella) would not want the Planning Board to require a performance bond tonight without lot release; Mr. Marinella agreed, noting he wants the lot releases

tonight. Mr. Marinella felt some of the conditions of approval were from the original approval (for Pine Knoll) when the subdivision project was for 102-units and did not think those should be required for the modified Hemlock Estates subdivision for the 31 single-family house lots. Mr. Bechtholdt disagreed and reminded Mr. Marinella that the Planning Board approved and issued a separate Certificate of Approval (with conditions) specific to the Hemlock Estates subdivision we all know today (31 house lots).

Mr. Murray asked Mr. O'Connell if he is familiar with the conditions of approval for Hemlock Estates; Mr. O'Connell indicated yes, however has not seen a printed copy. Mr. Bechtholdt offered to provide Mr. O'Connell with copies and invited him to review the file in the Planning office. Mr. Bechtholdt reminded the Planning Board that Andrews Survey & Engineering, Inc. has recently been employed by J&F Marinella to help oversee construction, etc. where Heritage Design Group, LLC had previously served in this role and capacity.

Mr. Howland suggested Mr. O'Connell prepared and provide the Planning Board with a letter formalizing exactly what they (J&F Marinella Development) are requesting to deviate from the Certificate of Approval(s). Mr. Bechtholdt agreed.

Mr. Bechtholdt reminded Mr. Marinella that the Planning Board had requested (J&F Marinella Development) back in April 2014 for him to attend a Board meeting to review the overall status of the subdivision (including conditions of approval), in preparation for this construction season and Phase 3 lot release; however no one attended. Mr. Bechtholdt continued, noting Mr. Marinella is now here tonight requesting a bond and lot release for Phase 3, where unfortunately the conditions of approval have not been satisfied; suggesting if he had attended in April or before now the Board may have been able to address some of these issues.

Mr. Murray asked if Mr. Howland had anything else to add at this point, Mr. Howland noted in regards to the bond (construction estimates he prepared) he need to receive and review the weigh slips for the binder course recently completed within the remaining portion of Phase 2 and Phase 3 (Fir Hill Lane). Mr. Marinella offered to provide the weigh slips from Lynch Construction. Mr. Howland also asked that erosion controls be employed along the newly paved portion of Fir Hill Lane. Mr. Bechtholdt noted as part of the conditions of approval (D5) temporary cape-cod berms or permanent granite curbing shall be installed as part of the initial construction with catch basin rim elevations installed at base course elevation; suggesting to Mr. Marinella that the Board may consider alternatives if agreeable and approved by JH Engineering, similar to that of the Camelot subdivision in the past.

Mr. O'Connell reviewed erosion controls with the Planning Board and Mr. Howland, referencing an Erosion Control Plan (Phase 2 & 3) prepared by Andrews Survey & Engineering dated September 12, 2014, noting work would start within the next few days. Mr. Bechtholdt noted concern of potential runoff (& sediment) from the southerly side of the road (high side) running down and into Lot #13 and questioned if a series of check-dams or hay bales should also be installed. Mr. O'Connell recommended utilizing a stone filter strip rather than hay bales; Mr. Marinella indicated the he planned to utilize rip-rap. Mr. Howland expressed concerns with the original Sediment and Erosion Control plan filed and asked Mr. O'Connell to draw up (sketch) methods to address sediment and erosion control which he can review (concern of cut & fill locations) slight deviations, etc. can be hand drawn. Mr. Marinella indicated that the basin has been shaped and will be seeded soon.

Mr. Bechtholdt suggested the Planning Board next review the construction schedule prepared by J&F Marinella; Mr. Marinella provided the Board members with copies for their records and review his schedule. Mr. Bechtholdt asked Mr. Marinella if he confirmed the completion date for installation of streetlights with National Grid; Mr. Marinella indicating that he spoke with National Grid representatives and they suggested by the end of October; to be safe he noted on the schedule November 30, 2014. Mr. Bechtholdt indicated the construction schedule provided does not appear to be very comprehensive and questioned if the schedule was for all phases (1, 2 & 3); Mr. Marinella initially suggested the schedule was for all phases and then corrected himself indicating the construction schedule was specific to Phases 1 & 2. Mr. Bechtholdt requested that a construction schedule for Phase 3 be provided in conjunction with the lot release request.

Mr. Bechtholdt confirmed with Mr. Marinella that the construction schedule presented to the Planning Board is an update to the schedule provided earlier in April 2014. Mr. Bechtholdt, in reference to the earlier construction scheduled asked if the drain line on Fir Hill Lane had been tied into the pond; Mr. Howland indicated yes, with the exception of the pipe through the easement; stops short but was included in the bond estimate. Mr. Marinella reviewed with the Planning Board construction scheduled dated April 22, 2014. Mr. Howland asked Mr. Marinella to confirm which streetlights, installed are operational.

Mr. Bechtholdt suggested, in regards to establishing the bond Mr. Howland needs to review the tonnage slips for the Phase 3 roadway to confirm the binder course installation; Mr. Howland noted he included in his estimates the remaining street trees, as well as general maintenance items such as catch basin cleanings, locating basins that may have been buried during paving, etc. Mr. Bechtholdt interrupted Mr. Howland, apologizing that he neglected to introduce Jeff Howland (JH Engineering Group, LLC) to Pamela Ferrara, the Planning Board's newest member. Mr. Bechtholdt explained that Mr. Howland is the Planning Board's consulting engineer for this project and a number of other projects before the Planning Board; noting although the Applicant pays for his services he works on the behalf of the Planning Board.

Mr. Howland's report (dated September 11, 2014) was distributed to the Planning Board members, detailing a construction cost estimate for all remaining improvements for Hemlock Estates at \$255,213.75; Mr. Bechtholdt noted as part of Mr. Howland's review and determination for bond estimate he reaches out to the various municipal departments (water, sewer, highway) to confirm whether or not they may have outstanding issues that could be included in his estimates.

Mr. Bechtholdt suggested if the Board is comfortable with the bond amount presented by JH Engineering Group the Planning Board may vote to establish the bond amount tonight; adding it is his understanding that Mr. Marinella would like to carryover the existing bond in the amount of \$172,000.00 for Phase I & II (reference made to Form K dated October 13, 2010 –Lenders Agreement with Middlesex Savings Bank) and in essence replace that agreement with a new lenders agreement for Phases 1, 2 & 3. Mr. Marinella suggested he would put up a cash bond (deposit of money) for the difference (in the amount of \$83,213.75); Mr. Bechtholdt suggested if that was the case then the Planning Board may need to formally release the initial bond (Lenders Agreement) and vote to establish separate bonds for Phases 1 & 2 and a separate bond for Phase 3, although he was not sure how to accurately reference which improvements detailed in JH Engineering's report as Mr. Howland's construction estimate was all inclusive (phases 1, 2 & 3). Mr. Marinella suggested keeping the current bond agreement at the \$172,000.00 and he would provide a cash bond for the difference. Mr. Bechtholdt noted again that he was not sure if that would work; Mr. Howland suggested he could separate out his report to Phase 1 & 2 and Phase 3. Ideally, Mr. Marinella was hoping

the \$172,000.00 was enough to carry all remaining work for Phases 1, 2 & 3; Mr. Bechtholdt suggested he was close but not quite there to allow for that.

Mr. Bechtholdt reminded Mr. Marinella that there are improvements and conditions of approval that still need to be satisfied before the lots can be formally released. Mr. Marinella asked when the Board could issue the lot release noting he hoped for them to be able to grant it today.

Mr. Murray suggested it appears lot release needs to be delayed, citing the main outstanding issue is the requirement to improve Smith & Gendron Street; Mr. Murray noted he would like to see the lots released but the Board needs to do things right. Mr. Marinella did not understand why the Board could not act on the construction changes and allow him the lot releases tonight. Mr. Bechtholdt reminded Mr. Marinella that he had asked him to attend a meeting and to review the conditions of approval numerous time to make sure what needed to be done was either satisfied or arrangements were made with the Planning Board specific to the required improvements prior to Phase 3 lot release.

Mr. Murray asked Mr. O'Connell his thoughts regarding the matter; Mr. O'Connell suggested two main issues: (1) the issue with the Planning Board allowing for the construction changes without a public hearing (Smith & Gendron Street improvements) creates a potential issue where someone may contest the Planning Board action during consideration of street acceptance, which if they do all the efforts to complete the project will be for not and (2) regarding lot release and the trigger to complete work, etc. prior to Phase 3 (D14, D15, D16 & D17, E9, E10 etc.). Mr. Bechtholdt noted there are a number of them (conditions of approval tied to Phase 3 lot release) and that's why he keeps going back to the developer to review and understand the conditions of approval.

Mr. Bechtholdt suggested perhaps what the Board could do is provide Mr. Marinella with a sense of whether or not any of the requested changes seem unreasonable, noting it would be foolish to go through the process only to have 3 or 4 members vote against it from the beginning. Mr. Marinella suggested not releasing Lot 21 & 22 that ties in the looping of the water line; hold those lots back. Mr. Massey explained what he would like to see is a checklist noting what has been completed and satisfied for each condition of approval so the Board can make a determination on lot release once the Board knows exactly what has and has not been completed or satisfied. Mr. Massey agreed that there are a lot of conditions tied to Phase 3 lot release and felt strongly that a public hearing specific to Smith and Gendron Street would be necessary.

Mr. Massey asked the Applicant/Engineer to provide the Planning Board for its next meeting (September 23, 2014) a matrix detailing what exactly is done and what remains; Mr. Bechtholdt also suggested that Mr. Marinella may want to request the Planning Board if they would be willing to delay the improvements to Smith & Gendron Street from prior to Phase 3 lot release to the release of Lots 21 & 22, with the understanding that he would also be looking for the Planning Board to amend the requirements to improve Smith and Gendron Street as part of a formal review (public hearing) of the Planning Board.

Mr. Marinella expressed his frustration and mentioned all the work he has done, noting he finished two failing projects; Mr. Bechtholdt acknowledged the work completed but reminded Mr. Marinella that the Planning Board cannot ignore or dismiss conditions of its approval; Mr. Bechtholdt mentioned that he and the Planning Board want to see him succeed in completing the subdivision and has been willing to work with him in the past.

Mr. Bechtholdt, not wanting to speak on behalf of the Board asked the Planning Board if the approach laid out seemed reasonable. Mr. Murray agreed with the Town Planner supporting his suggestion; Mr. Massey asked for a summary of items under consideration. Mr. Bechtholdt explained that the Planning Board has been asked to establish a bond for Phase 3 (and an update to Phase 1 & 2); Mr. Marinella will work with the Town Planner regarding the type of surety agreement once the bond amount is established by the Board. The Board has also been asked to consider lot release within Phase 3 (subject to establishing a bond first) as discussed as well there are a number of conditions of approval and required improvements that need to be satisfied prior to lot release (Phase 3) which J&F Marinella Development in letter prepared by Andrews Survey & Engineering, Inc. have asked the Board to waive or delay conditions until lots 21 & 22 are released, such as completing the looping of the water line. J&F Marinella Dev. has also asked to postpone the recreational contribution until lots 21 & 22 are released and has asked the Board to eliminate the requirements specific to Smith and Gendron Street, to which the Board indicated would require a public hearing for consideration, however may be willing to delay its completion prior to lot release of the same lots 21 & 22. If during that public hearing he Board was to modify or reduce the scope for Smith & Gendron those improvements would then be required to be completed prior to lot 21 & 22 release.

Mr. Bechtholdt suggested if the Planning Board is agreeable the Board, at its next meeting (September 23, 2014) can consider the construction changes requested and vote of them accordingly, after which the Board could establish the bond for Phase 3 (and the remainder of phases 1 & 2) and then consider lot release requests choosing to withhold release of Lots 21 & 22. Mr. Bechtholdt noted the Andrews Survey & Engineering, Inc. will also present a comprehensive breakdown (matrix) detailing the status of each individual condition of approval for the subdivision.

Mr. Massey acknowledged the process and what was being requested noting he was comfortable with this plan of action; Mr. Key noted as long as the Planning Board has a comprehensive evaluation of what is done and what remains he too would support this approach; Ms. Ferrara also indicated her support. The Planning Board TABLED its Decision/Review to Tuesday, September 23, 2014 to 8:00PM –Hemlock Estates.

## **OLD / NEW BUSINESS**

### Approval of Meeting Minutes –August 12, 2014 & August 26, 2014

Planning Board TABLED its review of meeting minutes for August 12, 2014 and August 26, 2014.

### 2014 Fall Annual Town Meeting (FATM) –Tuesday, October 28, 2014 (7:00PM)

Point of information –no discussion.

### 96 Thurston Ave (Laura Hanny)/Lot #10 Hillside Garden Estates –Discussion

(7:08PM) Chairman Murray indicated that he would be happy to move this discussion up from Old/New Business (prior to the Hemlock Estates –Review/Decision) if they (Ms. Hanny and Mrs. Nadeau) were agreeable to limiting the discussion to 15-minutes. Mr. Murray noted he did not want to seem rude but when the time is up the Board will need to conclude its discussion so they may review the Hemlock Estates scheduled for 7:35 PM; Ms. Hanny agreed.

Chairman Murray welcomed Laura Hanny (96 Thurston Ave) and Sara Nadeau (84 Thurston Ave) to the table for discussion; as they got settled Mr. Bechtholdt advised the Planning Board of the following



communications included in the Planning Board packet: Community Planning & Development memorandum dated September 08, (~~2015~~) 2014, Inspector of Buildings memorandum dated September 05, 2014, photographs (4) taken by the Building Inspector, email communication between the Town Planner and Selectman Ampagoomian dated July 31, 2014, August 01, 2014 and August 07, 2014, and copy of letter from Laura Hanny dated 04.27.14 (second letter dated 06.03.14 & third letter dated 08.24.14) regarding Lot #10 within the Hillside Garden Estates subdivision; Mr. Bechtholdt provided Ms. Hanny with copies of same.

Ms. Hanny explained that hopefully she did not need to go through all the flooding and erosion control problems that have resulted since the subdivision began; what she and Ms. Nadeau are more concerned about now as direct abutters is the development of Lot #10, which as she described is a small lot (1/2 acre) which runs behind her lot and Sara Nadeau's property. Ms. Hanny indicated that the builder has constructed an elevated driveway creating more of a slope to the existing slope and suggested the new house is situated on her property. Ms. Hanny explained that she has spoken with the Town Planner a number of times and has also talked with the Building Inspector about the need to install retaining walls, noting nothing has been done while the situation has gotten worse with erosion controls.

Ms. Hanny recalled originally there was to be a 50-foot buffer between her property and the new development, what they ended up with is about 10 to 12-feet with debris from construction. Ms. Hanny noted previous run-off concerns from the subdivision roadway where water ran down the road (Deane Way) onto Thurston Avenue and onto the property across the street (Osterman's yard); concern of one big slope from the top of Deane Way to the bottom of Providence Road. Ms. Hanny indicated that she had not experienced any water problems until this spring when the Lot #10 was developed. Ms. Hanny explained that she got no notice from anyone, one day the builder just started cutting trees and found out how small the lot really was when she determined he was building right on my property line. Ms. Hanny explained that the builder, in order to level his land for the house and driveway, pushed the slope and added another 12-degrees of slope to what was existing. Ms. Hanny noted they (abutters) are all concerned and Sara Nadeau will show pictures as to what happen before this lot was developed.

Ms. Neadeau reviewed with the Planning Board a series of photographs of her driveway, backyard and basement, (window-well interior/exterior), sink hole, etc. noting back in 2005 when this problem started there were no erosion controls in place and is concerned about future instances. Ms. Nadeau explained they recently had to remove a retaining wall on their property because it became a safety concern for them, adding every time there is heavy rain they have water. Ms. Nadeau explained to the Board that her grandparents had originally owned the home and never had a wet basement and never had a problem; the concern now is what is being done to prevent future erosion and run-off problems.

Ms. Hanny added it's a big concern now, because the builder increased the slope about 12% and everything is right on the property line. Mr. Bechtholdt asked Ms. Hanny to clarify what is right on the property line; Ms. Hanny responded stating the driveway and the house. Mr. Bechtholdt suggested that was not the case (in reference to the Building Inspector's letter).

Ms. Nadeau explained that she thought there was supposed to be a 12-foot buffer but if you go to the backyard the setback stakes are only 9-feet, so it is not even the 12-feet. Mr. Bechtholdt explained, according to the Building Inspector (in reference to his letter dated September 08, 2014) the house meets zoning; it's not on the property line, it meets the setback requirements; the driveway is not on the property line and it meets the setback requirements as well.

Ms. Hanny questioned what the setback is; Mr. Bechtholdt indicated that he did not know off the top of his head; Ms. Hanny was surprised and thought the Planning Board and the Town Planner should know what the setback is; Mr. Bechtholdt offered to look it up for her. Ms. Hanny stated she would like to know because she feels she is getting the run-around. Ms. Hanny added, she believes the setback is 50-feet in the zoning bylaws; Mr. Murray suggested it is 15-feet in the Residential –One Zoning District [subject property is within the Residential-3 zone where the side setback is 10-feet for single-family homes]. Ms. Hanny stated the house constructed (Lot #10) don't meet the setback per zoning.

Mr. Bechtholdt asked the Chairman if he could read into the record the communication from the Building Inspector because it seems the discussion is going in circles; Mr. Bechtholdt read memorandum dated September 05, 2014 from James Sheehan, Jr., Inspector of Buildings (re: Lot 10 Deane Way).

"The property at 51 Deane Way was inspected after the Town received a complaint from an abutter. The property has been permitted as a single family residence and is currently under construction. The lawn has been hydro-seeded and the gravel driveway is in. The builder did utilize a standard riprap detail along the edge of the driveway. The lot is also part of the approved sub-division known as Hillside Garden Estates. The property has an engineered site plan showing compliance with the zoning requirements for this District and the property lines have been staked. There is no requirement for a buffer zone though the builder did leave a 10-15 foot undisturbed area between the construction and the property line with 96 Thurston Avenue. I am not aware of any zoning violations or safety concerns with the property at 51 Deane Way and no runoff sediment was observed along the property line at the time of inspection"

Ms. Hanny immediately dismissed Mr. Sheehan's determination suggesting the Building Inspector is not a civil engineer inspector and began reciting a provision from Chapter 173 (Town of Northbridge Zoning Bylaw); which reads as follows: *"Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review. All slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of four inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber."* Mr. Bechtholdt asked Ms. Hanny from what zoning provision (section/sub-section) she was reading from; she did not know, however indicated it was from Chapter 173 page 38 (A & B).

Mr. Murray explained to Ms. Hanny that the Building Inspector is also the Zoning Enforcement Officer. Ms. Hanny stated there is no retaining wall there; Mr. Murray noted he was not aware that a retaining wall was required and does not mean to pass the buck but the Planning Board approved the subdivision that created the house lots (approved the project); it is up to the Building Inspector to enforce all of the zoning requirements. Ms. Hanny suggested the Building Inspector told her he did not know zoning and did not consider zoning a part of his job. Mr. Bechtholdt reminded Ms. Hanny and the Planning Board that the Building Inspector, in his memorandum noted he was not aware of any zoning violations and perhaps it may be a miscommunication between Ms. Hanny and the inspector. Ms. Hanny disagreed and suggested the

rules are right here in black and white (in reference to the zoning provision she read earlier). Ms. Hanny read the zoning provision once again.

Mr. Murray explained, as he did before, the project was approved by the Planning Board; Ms. Hanny interrupted Mr. Murray. Mr. Murray excused Ms. Hanny and explained to her that there were plans submitted as part of the subdivision for the roadway and drainage construction and that he is not aware of a retaining wall being required along Lot #10; the person to enforce whether or not a retaining wall is required would be the Building Inspector; Ms. Hanny interrupted stating he has not; Mr. Murray could comment on that and suggested she need to talk with him; Ms. Hanny stated when she spoke with the Building Inspector he told her zoning was not his responsibility; to which Mr. Murray replied, zoning is his responsibility.

Ms. Hanny suggested all that she wants to know is when a *“wall constructed of masonry, reinforced concrete or treated pile or timber”* would be installed; Mr. Murray replied that he did not know as the Planning Board does not have any jurisdiction, that jurisdiction lies with the Building Inspector. Ms. Hanny noted that she asked him (Building Inspector) to put a stop order of the construction of Lot #10; Mr. Murray explained to Ms. Hanny that the Planning Board cannot enforce something they are not authorized to do by law.

Mr. Murray suggested she talk with the Building Inspector once again; Ms. Hanny said she did, he said it's a civil engineer, a zoning matter which he has nothing to do with; he washes his hands the Town Planner washes his hands and the Planning Board does not know the zoning laws of the town.

Mr. Bechtholdt located the section Ms. Hanny quoted in his copy of the Zoning Bylaw, explaining to the Ms. Hanny and the Planning Board the citation is from Section 173-18.2 entitled Erosion Control, where according to sub-section D the Building Inspector may require such submission as part of the issuance of a building permit application, if determined to be necessary. Mr. Bechtholdt read subsection D, which reads as follows: The Building Inspector shall require the submission of information from the building permit application, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover and the nature of impoundment basins proposed, if any.

Mr. Bechtholdt explained to Ms. Hanny that she may need to read the entire zoning provision (Erosion control) to gain a better understanding; suggesting she contact the Building Inspector again and ask him, given what he knows about her situation and about the property, whether or not this lot development (Lot #10) triggers Section 173-18.2 [Erosion control] of the Zoning Bylaw; if he says it does not then we are done; if he says it does then that something he needs to pursue as part of his building permit.

Mr. Bechtholdt explained that when he has assisted Ms. Hanny in the past and provide her with direction she has accused him and everyone of not helping her. Ms. Hanny acknowledged however expressed her frustration when she spoke with the Building Inspector after only to be told it's a Planning Board issue; she is tired of the run-around and finger-pointing here there and everywhere. Mr. Murray reminded Ms. Hanny that the Planning Board was willing to give her 15-minutes; and it is now 7:30PM, noting the Board has other matters before them this evening.

Ms. Hanny informed the Planning Board that they would be getting a letter from her attorney just like Stu Hoyt had to do when he had \$48,000.00 worth of damage as a result of Deane Way; Mr. Murray suggested

she send it the Building Inspector first. Ms. Hanny added that she noticed the town fired its civil engineer shortly thereafter; Mr. Murray noted he was not aware of this. Ms. Hanny declared the town now does not have an engineer and had asked to bring one in for this project, nothing was done about it.

Mr. Bechtholdt explained that he has always been open to talking with Ms. Hanny and is willing to provide information to try to direct her in the right direction but refuses to listen; Ms. Hanny said she did listen and the Building Inspector told her this belongs to the Planning Board. Mr. Key asked who the Building Inspector reports to; Mr. Murray replied the Town Manager. Ms. Hanny indicated that the Town Manager has received a copied of her letter and the Selectmen have also been copied, noting she has spoken to one of the Selectman (Charles Ampagoomian, Chairman) who directed her to the Planning Board.

Mr. Bechtholdt in an effort to conclude the discussion, summaries the concerns raised and brought forth to the Planning Board (tonight) do not appear to be within the jurisdiction of the Planning Board, noting however the subdivision roadway and the erosion control concerns associated with water runoff and silt debris onto Thurston Avenue and across the street are certainly within purview of this Planning Board; but as far as construction of the individual house lots the Building Inspector/Zoning Enforcement Officer has jurisdiction; Ms. Hanny interrupted suggesting that the Building Inspector did not think so. Mr. Murray and Mr. Bechtholdt explained it's the Building Inspectors determination regarding zoning. Ms. Hanny asked if the Building Inspector has allowed the house (Lot #10) to be occupied; Mr. Bechtholdt indicated that he was not aware and suggested Ms. Hanny contact the Building Inspector in regarding to issuance of occupancy.

Ms. Hanny stated it was not much use talking to you people (Planning Board and Town Planner) and questioned when they (abutters) do have flooding issues who do they turn to then, adding they would like to be proactive in addressing concerns versus having an attorney (Mr. Brown) get involved (same who represented Mr. Hoyt). Mr. Bechtholdt explained, recalling Mr. Hoyt's incident was a direct result of the detention pond (under construction at the time) failing during a large rain event. Ms. Hanny suggested it is all Deane Way, poor engineering and not real zoning laws on slope. Mr. Bechtholdt explained to Ms. Hanny that the town cannot impose and enforce zoning laws that are not in the books; suggesting again to have the Building Inspector make a determination concerning Section 173-18.2 [Erosion control].

Ms. Hanny repeated her previous statement concerning a 15% slope calls for retaining walls and erosion control, asking again who enforcement that? Mr. Bechtholdt advised Ms. Hanny that the Building Inspector is the correct contact according to the Erosion control bylaw subsection D; which he read previously. Ms. Hanny disagreed. Mr. Murray advised Ms. Hanny that the Planning Board needs to conclude this discussion. Mr. Bechtholdt asked Mrs. Nadeau if she had anything else to add; Mrs. Nadeau indicated she shared the same concerns with Ms. Hanny and noted she understood that they should consult the Building Inspector. Mrs. Nadeau thanked the Planning Board and asked for her photographs back.

Mr. Murray stated that he hoped the Building Inspector was not passing the buck; Mr. Bechtholdt indicated that he has talked with the Building Inspector regarding Lot #10 specific to Ms. Hanny's concerns and hoped that was not the case. Mr. Key suggested the Planning Board provide a response to the Board of Selectmen updating them on the status of this ongoing matter; Mr. Bechtholdt agreed to provide them with a communication.

Presidential Farms/Driveway Openings (min of 14-feet) –Discussion

Mr. Bechtholdt suggested the Board TABLE this matter noting when he originally spoke with the developer he thought he was looking to reduce the driveway width, however looking to install transition stones at the driveways. Construction change request will be included on the next Planning Board agenda (September 23, 2014).

Rebecca Road Stone Wall (Right-of-Way) –Status/Update

Mr. Massey indicated that it was his understanding that the indemnification agreement was completed; Mr. Bechtholdt asked Mr. Massey to confirm once it has been recorded.

Hillside Garden Estates –Status/Update

Mr. Bechtholdt informed the Board that the developer, John Barges plans to pave (top course) the roadway in the upcoming weeks; the Planning Office has advised the various municipal departments and the Board's consulting engineer (JH Engineering Group) to coordinate; reference made to email communication sent from Town Planner to various departments (sent September 20, 2014) and reference made to email communication (response) from the Sewer Superintendent (received September 09, 2014) indicating no issues within the subdivision. Mr. Bechtholdt also explained that comments raised by JH Engineering Group have been forwarded to the developer and will be addressed prior to final paving; reference made to email communication from Jeff Howland (received September 11, 2014) concerning items to be done in preparation for top course pavement.

Green Meadow Court –Status/Update

Tabled –no discussion.

Farnum Circle –Status/Update (9/23)

Mr. Murray asked the Town Planner to contact the property owners (14 Farnum Circle) to see if they have followed up with National Grid and DIG-SAFE. The Planning Board is scheduled to review the Farnum Circle subdivision at its meeting of Tuesday, September 23, 2014 (7:35PM). Mr. Bechtholdt explained to the Board that he provided the property owners (21 & 14 Farnum Circle) with letters advising them of the next Planning Board meeting and to again seek their input on prioritizing remaining work.

The Camelot -Status/Update

Mr. Howland of JH Engineering Group, LLC (Planning Board consultant) indicated that J&F Marinella Development (developer) had asked him to prepare an updated construction estimate (new bond amount) for an additional portion of Phase I (as revised); Mr. Bechtholdt noted that he has not received any thing from the developer regarding this request and suggested tabling the matter; Mr. Howland suggested, based upon his site inspection (September 11, 2014) J&F Marinella Dev. was not ready as the drainage was not completed, the water was not installed, etc. for the additional 150-feet. Reference made to JH Engineering Group report dated September 11, 2014.

Mail –Review

In addition to the mail listed (see attached) the Planning Board noted receipt of the following communications: (draft) Planning Board agenda for September 16, 2014; (draft) agenda for September 23, 2014; Public Hearing Notice for Zoning Amendment for Table of Height & Bulk Regulations to increase the maximum permitted height in the I-1 and I-2 (Industrial Zones) from 30 and 45 feet respectively to 60 feet

and to increase the maximum permitted height (stories) in the I-1 and I-2 from 2 and 3 stories respectively to 4 stories; Letter dated August 15, 2014 to Town Clerk from Town Planner regarding Zoning Amendment Article – Table of Height and Bulk Regulations; Memo dated July 31, 2014 to Planning Board from Town Planner regarding Table of Height & Bulk Regulations, Industrial Zoning District(s); Letter dated September 5, 2014 to Town Planner from Building Inspector regarding Zoning Amendment Article – Table of Height and Bulk Regulations; Memo dated September 5, 2014 to Town Planner from Fire Chief regarding Change in Building Height Requirements; Hemlock Estates Subdivision Layout Plan; Hemlock Estates Subdivision Phasing Plan; Construction Meeting Notes dated September 3, 2014 prepared by Town Planner concerning Hemlock Estates Subdivision; Letter dated September 3, 2014 to Town Planner from Whitinsville Water Company concerning Hemlock Estates Construction Meeting of September 3, 2014; Email dated August 25, 2014 to Town Planner from JH Engineering concerning Hemlock Estates Phase 3; Email dated September 9, 2014 to JH Engineering and Town Planner from DPW Sewer Superintendent concerning The Camelot and Hemlock Estates; Email dated September 9, 2014 to Town Planner, Planning Admin. Asst., Fire Chief, Building Inspector, BOH Administrator, Whitinsville Water Company, DPW Sewer Superintendent, Planning Board Chair, JH Engineering, and DPW Highway Superintendent from DPW Director concerning Hemlock Estates construction meeting; Email dated September 9, 2014 to Town Planner, Planning Admin. Asst., Fire Chief, Building Inspector, BOH Administrator, Whitinsville Water Company, DPW Sewer Superintendent with a cc to JH Engineering, Andrews Engineering, J & F Marinella, Planning Board and DPW Highway Superintendent from DPW Director concerning Hemlock Estates, Construction meeting; Construction Schedule dated April 22, 2014 for Hemlock Estates; Certificate of Approval dated July 19, 2008 for Hemlock Estates Definitive Subdivision; Special Permit Flexible Development dated June 11, 2008 for Hemlock Estates Flexible Development; Letter dated November 25, 2009 to Town Clerk from Town Planner regarding Hemlock Estates Construction Change – Looping of Water Line; Performance Secured By Lenders Agreement (Form K) dated October 13, 2010 for Hemlock Estates, a modified Definitive Subdivision; Memo dated September 8, ~~(2015)~~ 2014 to Town Manager from Town Planner concerning 96 Thurston Avenue – Laura Hanny and Lot 10 Hillside Garden Estates; Memo dated September 5, 2014 to Town Manager and Town Planner from Building Inspector concerning Lot 10 Deane Way; Email dated August 7, 2014 to Board of Selectmen Chair, Building Inspector, DPW Director, and Town Manager with a cc to the Developer of Hillside Garden Estates from Town Planner regarding Deane Way; Letter dated August 27, 2014 to Board of Selectmen with a cc to Zoning Board of Appeals, Conservation Commission, Board of Health, Town Manager from Laura Hanny concerning Thurston Avenue and Hillside Garden Estates; Town of Northbridge Chapter 222 – Subdivision Rules and Regulations page 44; Email dated September 9, 2014 to Town Planner from DPW Sewer Superintendent concerning Hillside Garden Estates paving; Email to DPW Sewer Superintendent, Whitinsville Water Company with a cc to Town Planner from JH Engineering concerning The Camelot and Hemlock Estates; Email dated September 4, 2014 to Ed Himlan from MA Watershed Coalition regarding October 17, 2014 Stormwater Workshop; Planning Board Public Workshop for 2040 Providence Road August 26, 2014; Email dated September 2, 2014 to DPW Sewer Superintendent, Whitinsville Water Company with a cc to Town Planner from JH Engineering regarding The Camelot and Hemlock Estates; Email dated September 2, 2014 to JH Engineering, Planning Admin. Asst., Town Planner, Building Inspector, DPW Director, BOH Administrator, Whitinsville Water Company, DPW Sewer Superintendent with a cc to Developer, Board of Selectmen Chair, Planning Board from Town Planner concerning Hillside Garden Estates Paving; Worcester Telegram & Gazette article “Northbridge Officials Eye Parcel as Potential Revenue Source” dated September 9, 2014; 2014 Planning Board Schedule.

Other

Mr. Bechtholdt explained to the Planning Board that he is going to start uploading the Planning Board packets online so Board members may be able to view/print them out; he will also continue to printout hardcopies for those who prefer to pick them up at the Planning office. The Planning Board and the Board's consulting engineer regarding the Board's scope of authority for subdivision (limit of roadway right-of-way and easement areas) and the Building Inspector's for building permits (per Building Code 10-feet from building), suggesting there may be some gray area; Mr. Bechtholdt noted in Northbridge the Building Inspector is also the Zoning Enforcement Office so there shouldn't be any gray area for lot development; what may be outside the scope of a building permit may still be enforceable through zoning and the Zoning Enforcement Officer. Mr. Bechtholdt noted that he plans to attend a Stormwater Workshop on October 17, 2014 as well as the Southern New England American Planning Association's annual conference in late October (Oct. 23 & Oct. 24) to be held in Providence, RI, Planning Board noted receipt of hardcopy of the PowerPoint presentation of the 2040 Providence Road Reuse Plan Public Workshop. Planning Board received copy of news article from the Worcester Telegram & Gazette entitled "Northbridge officials eye parcel as potential revenue source" by Susan Spencer dated September 09, 2014, specific to town-owned land located off Providence Road across the street from the Waste Water Treatment Plant; Mr. Bechtholdt indicated that he hopes to perform some preliminary research and evaluations soon in preparation for a discussion with the Board of Selectmen in the upcoming months. Mr. Bechtholdt informed the Board that it was his understanding that the new owner of the remaining units within Pine Knoll, Senior Living Development has applied to the Zoning Board to seek a variance regarding the affordable rate requirement, if the ZBA grants such approval the owner would then need to modify the special permit issued for the Senior Living Development with the Planning Board who is the Special Permit Granting Authority. Mr. Bechtholdt noted receipt of complaint (police report) from a resident concerning the recent installation of street trees within the Presidential Farms subdivision, concerns about trees being planted on private property. Mr. Bechtholdt noted that the Planning office has received confirmation that the street trees being planted within Presidential Farms have been installed within the subdivision roadway right-of-way and not on private property. Mr. Bechtholdt mentioned he spoke to the Building Inspector who noted the community mailbox installed for Hillside Garden Estates is not handicapped accessible; Mr. Bechtholdt explained that he contacted the developer, John Barges (reference made to email communication sent September 15, 2014) who indicated that the Post Office installed it. Mr. Bechtholdt expressed concerns with the mailbox not be accessible and why the Post Office does not abide by the ADA requirements and questioned what the Planning Board could do. Mr. Murray provided copies of information received when he attended the CMRPC Quarterly Meeting of Thursday, September 11, 2014.

Adjournment

Having no additional business the Planning Board adjourned its meeting of Tuesday, September 16, 2014 at or about 9:15 PM.

Respectfully submitted,

Approved by Planning Board –

R. Gary Bechtholdt II  
Town Planner

Cc: Town Clerk