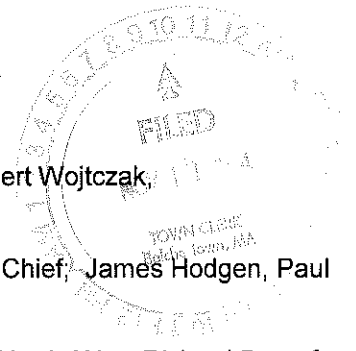


# Belchertown Planning Board Minutes

October 14, 2014



Members: Daniel Beaudette, Christopher Laurenzo, James Natle, George Synan, Robert Wojtczak, Michael Hofer, Alternate Voting Member Special Permits  
Staff: Douglas Albertson Town Planner, Susan Gay  
Visitors: Robert Hummel, Michael Havlin and Ian Kolesinska (students); Ted Bock Fire Chief, James Hodgen, Paul Lambert (73 Old Sawmill Rd), one audience member not signed in.  
Appointments:  
Kevin Gillis and Kelly Killeen engineer for High Bluff and Sunny Crest; Kevin Drew for Harris Way; Richard Barry for Oasis Drive; Richard & Barbara Greene for Old Sawmill Road and engineer Anthony (Tony) Wonseski.

Christopher Laurenzo, Chairman, opened the meeting at 7:30 pm.

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**ANR - Motion** G. Synan to endorse the ANR plan for Michael & Vicki O'Brien for Aldrich Street, Map 248, Lots 21, 20.1 proposed Lot A, Second D. Beaudette, Vote 5-0-0;

**Motion** D. Beaudette to endorse an ANR plan for Donald R. Besancon, Donald R. Besancon Investment Trust, Allen Street, Map 232, Lot 182 & Map 231, Lot 23, proposed estate Lot 9A and remaining land, Second J. Natle, Vote 5-0-0.

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Kevin Gillis, Northborough Realty Holdings, LLC, came with his engineer, Kelly Killeen of Coler and Colantonio. Mr. Gillis is requesting an extension for High Bluff Road and Sunny Crest Lane off Franklin Street. The definitive plan is for an open space community development, endorsed in 2004 and last extended to November 30, 2014. All the lots are being held under covenant as a performance guarantee.

Mr. Killeen presented an updated construction estimate, and he noted price increases over the past 10 years. He said work has been done on the project, such as final grade and stockpiled materials on site. He said this new cost estimate totals 1.4 million dollars. He submitted the estimate form to the board with his engineer stamp and signature.

The board asked if the subdivision is viable considering the change in its market value combined with the higher construction cost. Mr. Killeen said these 24 lots were valued at 60,000 to 65,000 (w/sewers). He said the 1.4 million dollars would go to building ways, and at 60 to 65k each it could break even. Mr. Gillis said when the subdivision began, lots were worth more than they are now, but he feels the market is now improving.

The board noted the town had to repair an open sewer trench along Franklin Street that a previous developer of this subdivision had abandoned. Discussed the sewer layout to approximately the Pine Street area, and how much farther it has to be done to reach the subdivision way entrance.

The board noted that Steve Williams, DPW Director, indicated that Franklin Street would be paved in the spring of 2015. The board said Mr. Gillis should do the sewer work on Franklin Street prior to that. Mr. Gillis said it would be the appropriate thing for him to do, and he would put in the sewer line to the subdivision entrance. He said he'll work with Steve Williams on a schedule.

Mr. Gillis hopes someone will take over the project with the ability to process rock (ledge) and keep their costs down. The board said the last time Mr. Gillis came to the meeting, he was speaking of an exit strategy, that he intended to sell the plan and now he's speaking as a developer. Mr. Gillis said it's still an exit strategy but he cannot process rock. He can put in the sewer extension to the entrance and said he doesn't have much choice but to do so.

The board noted if Mr. Gillis put in sewer along Franklin Street (Rt. 181) to the entrance way, it would be considered progress. The board discussed giving a one-year extension versus a two-year extension. They unanimously agreed to allow one-year extension, and when the sewer is in place to the subdivision entrance, the board would note an automatic extension timeline for construction deadline to two additional years, to 2017.

**Motion** D. Beaudette to extend a definitive subdivision plan for High Bluff Road and Sunny Crest Lane to November 30, 2015, with the condition if sewers are brought to the entrance way of the subdivision, the planning board will automatically extend the subdivision two more years, Second J. Natle, Vote 5-0-0.

The Chair Christopher Laurenzo endorsed and wrote conditions stated in the motion on the form C-1a which will be filed with the Town Clerk and recorded at the registry of deeds.

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Kevin Drew, representing Roger Harris requested to meet with the board to discuss Harris Way off Bay Road. He submitted a letter for extension to a definitive plan, and a form requesting release of a lot on Harris Way. Mr. Drew

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said the request for release to this lot is to sell it to the abutter Universal Forest Products. He said Universal said they'd also purchase a second lot once this purchase went through.

The board said they need to hold cash in escrow. They said in previous years they asked Mr. Harris to meet with them to discuss Harris Way and received no response from him. The board said the town has been waiting 15 years to get this completed and accepted by the town. Mr. Drew offered the town \$15,000.00 in escrow after the sale of the lot to Universal Forest Products. The board went over his proposal and said the amount offered would be too low to complete this way. They said they have to hold in escrow \$50,000.00.

The board said they need an additional \$30,000.00 for this project, as there is an account that holds \$20,000.00 already in escrow from Mr. Harris. Discussed the possibility that a sewer line will be put in along Harris Way. After much discussion, Mr. Drew agreed to put \$30,000.00 in escrow from the pending sale.

**Motion** J. Natle to extend Harris Way definitive subdivision to October 31, 2016, Second D. Beaudette, Vote 5-0-0.

**Motion** J. Natle to endorse a Form F-4 *Performance Secured By Deposit Of Money*. This will be in addition to an account in the amount of \$20,000.00, for a total of \$50,000.00, Second D. Beaudette, Vote 5-0-0.

**Motion** J. Natle to release the covenant on lot 69.04 Harris Way and endorse Form F *Application For Partial Release And/Or Exchange Of Performance Guarantee Or Covenant* signed by Roger B. Harris for Harris Way, lot 69.04 (current assessor parcel 230-37), in exchange for a cash escrow of \$30,000.00, to be held in escrow by the Town of Belchertown, Second D. Beaudette, Vote 5-0-0.

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Richard Barry was present as a representative for owner Marcel Nunes for Oasis Drive off Munsell Street. Mr. Barry said Oasis Drive is complete. The board went over various items, and asked if easements for the drainage were correctly drawn and submitted. Mr. Barry said his attorney is doing the paperwork for this.

The board noted that Mass. DEP has not issued a final resolution with this property. Doug went over information on this issue. He noted an Enforcement Order for a violation by Peter Galuszka, the previous owner and developer. This order was then taken over by Mass. DEP. There were also citations and fines levied by the EPA and Army Corps of Engineers. It was noted that subsequent to the violation, the parcels were divided and now the parcel with the specific violation is not part of the subdivision. This issue needs to be resolved before the subdivision can be accepted by town meeting. Doug said this was discussed with Mr. Barry's attorney Maynard. The stream violation is not under the jurisdiction of the planning board. There is a question about Oasis Drive being complete as it still has the encumbrance of unresolved citations. The board encourages the property owner, Marcel Nunes, to resolve this. Mr. Barry said he'd get a letter from Atty. Maynard that the parcel with the violation is not part of the subdivision, and it is a separate ANR lot. Mr. Barry said it is owned by Sunrise Properties, Incorporated. Doug noted the as-built plan needs recording at the Hampshire Registry of Deeds prior to the way being accepted at a town meeting.

**Motion** J. Natle to endorse Certificate of Completion for Oasis Drive subdivision and release all municipal interest, pending satisfactory completion of the drainage easements per town counsel, Second R. Wojtczak, Vote 5-0-0.

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Chris re-opened a public hearing for Old Sawmill Road extension phase 3. There were a few people in the audience. Richard Greene asked his engineer Tony Wonseski from SVE to speak on his behalf regarding this plan. Mr. Wonseski reviewed the process they went through to meet the requirements of the Mass. Fish and Game Department's Natural Heritage program to minimize disturbance. The plans for the phase 3 extension to Old Sawmill Road were part of the overall review that Natural Heritage required that also included the Nexamp solar array, the closing of the gravel pit, and the potential condominium development. Mr. Wonseski handed the members a packet of information and plans that were numbered for identification and timelines. He said the board received notice of the Environmental Notification Form that had been filed.

Dan reviewed the full timeline for this subdivision, and noted in 1991 the preliminary plan showed the road off Segur Lane, with an area for phase 3. The board members held a site visit Sept. 27, 2014 to view the area. Dan said in 1991 the plan showed crossing a stream and coming out where the mini-golf is now located. The plan also shows the condominiums right behind the pond and a through street. Noted the preliminary plan was shown in 1991 and approved based on discussion to be three phases. There have been two plans, phase 1 in 1996 showing what it was in the preliminary plan, for a particular area and not filed as a comprehensive subdivision plan for the three phases.

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Phase 2 was submitted two years later, and now phase 3 has been designed for where the board held their site visit. The plans that were to be based on the preliminary plan did not happen. Once the mini-golf came along, and then the solar array, the plan changed. When the board approved the previous plans, Phase 1 definitive subdivision, Phase 2 definitive subdivision, mini-golf and driving range, and solar array, Phase 3 was not part of the plan and was penciled in. The preliminary plan showed the through road and Phases 1 and 2 were permitted on the presumption that the through road would continue. The location of the through-road changed once the mini-golf was permitted.

Dan also noted after 2003 this plan was no longer valid and no longer going to be a through way to Ware Road. There is nothing to show what Mr. Greene had for his plan "B". It was also noted that the preliminary plan was no longer valid as the plan had been changed, and the roadway, originally documented to come out to Ware Road, was not going to happen. The subdivision regulations state a way will not be beyond 1,200 feet and it was noted that Mr. Greene was aware of this from the beginning of the plan.

Doug charted meetings and their minutes for both phases 1 and 2. It also included timelines for the site plans for both the mini-golf and the solar array. The last extension deadline date was to 2011, but during the period of 2008-2012 the State gave an automatic extension for subdivisions in progress. So, with that 2011 deadline, and four-years extended, a deadline date would then be Sept. 20, 2015.

The board asked Mr. Wonseski what he thought the next step was for this plan. Mr. Wonseski said he felt present information and timeline were up to speed. He thought the preliminary plan was still valid. He said the road is in a different position, but it was the intention to go through to Ware Road. He said then the solar array was built, and on the plan for the solar array, it shows an extension for Old Sawmill Road, and that it was rerouted. He said then there was a check list for the site plan that triggered the changes from the Natural Heritage review. Mr. Wonseski went over a submitted package of paperwork, each numbered and charted, and his timelines for each project.

The board said they never had a full definitive plan for Old Sawmill Road. The 1991 preliminary showed the proposal as a through-street, but it was never drawn out as a definitive plan. The project never showed a full lay-out of all three phases, so each phase was handled as a separate and individual subdivision. It would be difficult to extend a subdivision way that was never permitted in the first place, and now extensively exceeds the regulations.

The board noted there was always a presumption of the through-street based on the preliminary plan, which is why the first two submittals, Phase 1 and Phase 2 were approved. Since then, even the preliminary plan was altered by the building of the mini-golf, which was put right where the plan shows the road's intended throughway to Ware Road.

The board noted it is neither their purview, nor that of any other town department, to manage a developer's business. This subdivision has been planned in some measure for over 20 years, with construction not yet complete. The Natural Heritage review did not occur until long after Phases 1 & 2 were permitted. Indeed, in 1996 the Fish and Game Department issued permission for two stream crossings for what was to have been Phase 3, now in the area for which construction is not allowed.

Mr. Wonseski noted that when the ENF was filed for this whole project, copies went to boards and commissions and there was little comment. The board stated that by developing other projects on the property on what had been intended for the subdivision, the reviews became complicated and the subdivision plans unclear. The board said now because of external changes, they're being asked to make a bad situation better or fix what the developer created. The board noted that Mr. Greene never asked to meet with them to review what he saw happening to this subdivision. It creates a dilemma for this board, which is to ask them to fix to a problem which wasn't there when the project began.

The board considered that their length limit for a subdivision way would be compromised. It was also pointed out that in a way this limit already has been violated. If the board that permitted the first two phases had known that the road would never go through, perhaps they would not have granted those permits. However, they approved those subdivisions based on the understanding that a Phase 3 would complete the circuit and provide a second connection to the street network. Now the board feel they are being put in a situation that has no clear resolution.

The planning board noted in minutes from 1993 that the board said their regulations limit a dead-end to 1,200 feet, and so Mr. Greene knew from the start of his proposal that he had to make a through-street. Mr. Greene said he then had plenty of land but the rules changed and now he is restricted from developing the part of it that would have had the through-street. Mr. Wonseski said the board could see what was happening when Mr. Greene came in with the mini-golf plans and then the solar array plans. The board said all projects are individual, and they review all the projects individually and separately from the subdivision. It's not their role to offer a developer advice.

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Christopher Laurenzo asked the audience members for any comments or questions. One member of the audience stated that the subdivision has been in process for many years, and if the developer took the planning direction we would not be having this discussion. Another audience member said he lives on Old Sawmill Road and had no problem with an emergency access way that could be used for recreational purposes as well.

The board said in a previous meeting they would let Mr. Greene know if they'd consider this proposed plan at all or disallow the extended street outright.

Mr. Laurenzo asked the board members for consensus. Some of the discussion included what might take away property rights from a land owner; the regulations currently in place that restrict a dead-end road; the original definitive plan having been originally a through way road, but after 2003 it was not valid because of the mini-golf development; the way was no longer going through and no "Plan B"; people built homes on Segur Lane when it was a cul-de-sac only to have a subdivision way come off their cul-de-sac.


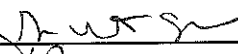

The board said "the submitted plan would not be accepted and that Mr. Greene had to conform to Belchertown Subdivision Regulations" Chapter 270, Article V, Design Standards, Section 270-36 Streets and Ways, F. Dead-end street, (1) The length of a dead-end street allowed by right is 600 feet. A longer dead-end street is allowed up to 1,200 feet if a corresponding amount of open space in the subdivision is dedicated (see Sec. 270-9 for the definition of Open Space). The formula is that for every two acres of open space dedicated, 100 feet of street length is allowed, up to 1,200. If a second dead-end extending from the first one is desired, an additional two acres of open space per 100 feet of street length is required.

Subdivision Regulations Chapter 270, Article V, Design Standards have been followed by other developers as adopted since revised July 26, 2005.

**Motion** J. Natle to continue the public hearing for Old Sawmill Road to Wednesday November 12, 2014 at 7:30 pm, Second G. Synan, Vote 5-0-0.

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**Motion** to adjourn D. Beaudette, Second J. Natle 11:30 pm, Vote 5-0-0.

  
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/sg/da

*\* put with 10/14/14 minutes*

**Susan Gay**

**From:** Doug Albertson  
**Sent:** Tuesday, October 14, 2014 8:39 AM  
**To:** Colleen Toothill-Berte; Chris Laurenzo (claurenzo@charter.net); Dan Beaudette (Dan Beaudette [Dan.Beaudette@ma.usda.gov]); George Synan (grs667@charter.net); Jim Natle (JNate7007@aol.com); Mike Hofler (Mike.Hofler@gmail.com); Rob Wojtczak; Susan Gay (E-mail)  
**Subject:** FW: Catch up on public hearing

A board member, Rob Wojtczak, missed a session of the Greene subdivision public hearing and with this note attests that he watched the video of it.

Doug

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**From:** Rob Wojtczak [mailto:robwojtczak@outlook.com]  
**Sent:** Monday, October 13, 2014 3:05 PM  
**To:** Doug Albertson  
**Subject:** RE: Catch up on public hearing

Hi Doug

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Thank you for the vimeo link. I was able to view the public hearing and catch up to speed what I had missed in my absence last meeting.  
Please accept this email attesting of same, and please forward to the rest of the board and town clerk.  
Thank You and see you tomorrow evening.  
Regards,  
Rob

- > Subject: Catch up on public hearing
- > Date: Fri, 10 Oct 2014 13:46:17 -0400
- > From: DAlbertson@beichertown.org
- > To: robwojtczak@outlook.com
- >
- > Rob,
- >
- > The Greene public hearing was continued to this next meeting. In order
- > for you to vote, you need to watch the proceedings, which you can do on
- > Channel 5 - try this link:
- >
- > <http://vimeo.com/107101002>
- >
- > Once you've done that, you can submit a letter to the board and town
- > clerk attesting that you have reviewed the proceeding of the public
- > hearing session that you missed. Board members are allowed to miss one
- > session of a public hearing as long as they attest that they have heard
- > all the public testimony.
- >
- > As this is a subdivision, approval needs only a simple majority; a