

Present: Greg Bohosiewicz, Tom Mitchell, Gail Proctor, Steve Collins, Members of the Board of Adjustment; Cy Little, Lawyer for the Town; Richard Greeley, Building Inspector; Charles McGettigan and Eddie Lamminen, Selectmen; Wilfred Brusseau and Nancy Daly, Planning Board Members; Gilbert Testa, Fire Chief; Robert Pollock Forest Fire Warden; Stanley Schultz, Sewer Commissioner.

Hearthstone Community Association was represented by Richard Peckham, Samuel and Louise Kaymen, Ross and Sherry Jennings and their attorney, John Shortlidge.

Other citizens were also present and entered into the discussion.

The Clerk, Gail Proctor, read the original application and a list submitted by Hearthstone Community Association of the specific requirements of the Cluster Development Regulations to which they sought exceptions.

Before considering specific exceptions, Mr. Bohosiewicz asked Mr. Little for his opinion on what would happen were the exceptions granted and later the Hearthstone Community Association ceased to exist. Mr. Little said that any approval would be tied to the application submitted including the maps; an exception is not given to a particular person or entity but to the land, premised upon a particular plan. Anyone who might later acquire this property would be free to develop it according to this proposed plan. If a change in plan were desired, it would be necessary to apply to the Town of Wilton to the appropriate Board for such a change. At the end of the 99 year lease, assuming the town has the same regulations, then the plan would still be subject to this agreement.

It was agreed that the specific exceptions would be considered separately.

1. Cluster Development Regulation C, 7 ("Those roads which are collectors . . . shall be offered to the town for public acceptance.) Exception requested: Collector road to be retained in private ownership and maintained by the Hearthstone Community Association.

Question was raised as to the responsibility of the town should the fire department or ambulance be unable to reach a residence because of the condition of the road. Could the town be sued by either the resident or an insurance company acting for the resident?

Mr. Little said this is an area where there has not been legislation. The only precedent so far of this type was an instance when someone's house burned due to inadequate water pressure. In that case the Supreme Court ruled that the town could not be held liable. In this case, the people who live in this development will do so voluntarily, knowing that they are not on a town-maintained road. Even though economics is involved, (the cost of a paved road) this does not change the voluntary aspect. Insurance companies cannot seek to pass off liability where they could have asked questions to establish the risk--they should ask the insured for instance how far he is from a town-maintained road.

Mr. Greeley suggested that it be in writing that the residents would not hold the town responsible. This was generally approved. After some further discussion, the following motion was made by Tom Mitchell:

Moved that the collector road is to be retained in private ownership and maintained by the landowner, its successors and assigns so that it is accessible to emergency vehicles at all times; and further that the landowner shall by covenant for itself, its successors and assigns release and agree to hold harmless the Town of Wilton, its agents, contractors and employees from any claim by reason of the private status of the collector road. Voted unanimously.

2. Cluster Development Regulation, C, 7 referring to Subdivision Regulation VII, B (entire section). Exception requested: Roadway to have a surface width (not including shoulders) of 20 feet. (S.R. VII,B requires 24 feet)

There was considerable discussion of the narrowing of a road when there are heavy snows, that a large plow is needed to wing the snow back. Mr. Little pointed out that the typical showed two foot shoulders and a right of way substantially wider than the surfaced part and shoulders where snow could be thrown back. Mr. Kaymen suggested that a town plow might be hired occasionally if necessary to get the snow winged back, but it was felt that town plows would be especially busy on town roads at the times most needed for this.

Tom Mitchell moved that the exception read as follows: The roadway to have a surface width not including shoulders of 24 feet. Voted unanimously.

3. Cluster Development Regulation C,7 referring to Sub. Reg. VII,C (entire section). Exception requested: Roadway to be built as a gravel surfaced road to specifications of Hearthstone Community Association's civil engineer and road contractor.

Questions were raised as to whether since the road was to be privately maintained and owned the town had an interest in the surfacing. Mr. Little noted that S.R. VII,C covered not only surfacing but base layers, etc. Mr. Testa said that the town might need to run heavy equipment on it such as fire trucks at times. It was noted that the typical was prepared by a certified engineer.

It was suggested that the exception include the requirement that the road meet with the approval of the Planning Board. Mr. Brusseau felt that the Planning Board would be bound to the regulations. An alternate suggestion was that it meet with the approval of the Wilton Road Agent and be capable of bearing emergency vehicles. Ann Godley thought that it should be built according to the cluster development specifications except that it need not be hard top.

Mr. Shortlidge said that the reason for the lesser requirements are that first there would be less traffic than on most roads and second that where a road is not hardtopped, it doesn't break up in the same way.

There was considerable further discussion on drainage, shape of the crown, depth of gravel, requirements for heavy emergency vehicles. Mr. Peckham agreed that the road should certainly be of a quality to support emergency vehicles.

Motion was made by Mr. Mitchell that the road be built as a gravel surface road pursuant to S.R. 7, C, 1, 2 and 3. Seconded and voted unanimously.

4. C.D.R., C, 7 referring to S.R. IV,G (entire section). Exception requested: Roadway to be long enough to provide access to all driveways of the dwellings and other buildings within the cluster (1600-1700 feet). End of roadway to be determined by agreement between Hearthstone Community Association and Town Fire Marshal.

Mr. Testa said they had discussed having an access road around the back of the buildings, but if this is not feasible because of slopes, to have a cul de sac. Mr. Peckham said they would work with the Fire Marshal on this; the slopes are 25 percent grades at some points, so that an access road behind buildings would not be practical.

There was discussion as to difference between a loop and a cul de sac. Mr. Little said a cul de sac would be an open area sufficient for turning trucks around; a loop might have trees or shrubbery in the middle and vehicles would drive around it. Mr. Peckham said a loop would be preferred.

Motion was made by Tom Mitchel that the 600 foot limit for a deadend road be waived; that the roadway shall end in a loop of sufficient radius for maneuvering fire vehicles to be determined by the Hearthstone Community Association and the Town Fire Marshal. So voted.

5. C.D.R., C,8 Exception requested: Parking spaces to have a surface similar to the road or driveway which is the access to the parking spaces.

Steve Collins moved that this exception be accepted as written. Seconded and so voted.

6. C.D.R., E, 3, b,9 (entire section) Exception requested: Any requirement of this section not presently shown on the plan submitted to the Planning Board by the Hearthstone Community Association will be developed or indicated, if deemed necessary by the Hearthstone Community Association, in a manner to be determined by the Hearthstone Community Association in accordance with a land management plan prepared by the Hearthstone Community Association and in accordance with any requirements of the Zoning Ordinance of the Town of Wilton.

After some discussion, Mr. Little suggested adding a note to the plan that there would be no signs, loading and service areas, etc., nor landscaping other than around specific buildings. Buildings and driveways are already shown.

Question was raised about additional buildings and Mr. Peckham replied that they understood that if they were to add buildings not now shown they would come back for approval.

On behalf of Hearthstone Community Association, Mr. Peckham withdrew Exception No. 6.

7. C.D.R., E,,3,b,16 (entire section) Exception requested: Sequence and timetable of development to be determined by the Hearthstone Community Association as necessary and realizing a logical order of events.

Mr. Peckham said that they would present as thorough a sequence and time table as possible at this time, that they are trying to do it in accordance with the best use of the land. The planning is being done by the future residents and

while some of the future residents are now active, others will be added later.

Mr. Brusseau suggested that a tentative time table be presented since the town needs to know in cluster developments what it will be facing and how soon.

After some further discussion, Mr. Peckham on behalf of Hearthstone Community Association, withdrew request No. 7.

8. C.D.R. D, 6 (entire section). Exception requested: Recreation facilities to be determined by the Hearthstone Community Association.

It was pointed out that this is not a situation where a developer is responsible for providing recreational facilities, but rather the residents themselves will be deciding whether they are going to have a recreation area. Question was raised whether if the Association later wished to build a swimming pool or tennis court they would have to get approval. Mr. Greeley felt that so long as it was added to the tax inventory the town need not be concerned, just as with any other resident. Mr. Testa suggested the idea that possibly a fire water hole be dug at some time and be used for swimming and skating as well. Mr. Little felt that in a cluster type development approval contemplates an expansive review of land use. If any part of the parcel subsequently is changed, then it is necessary to get approval. The regulations require adequate provision for recreation; the town should not have to provide them. It was also pointed out that this is not a large group of families; that the Cluster Development regulations were prepared with larger developments in mind.

Mr. Mitchell moved that this requirement be waived at this time, but any further recreation facilities must be approved by the Planning Board. So voted.

9. C.D.R. Review Checklist, IV, b (entire section). Exception requested: Building size (and architecture) to be determined by the Hearthstone Community Association (common buildings) or individuals (dwellings) prior to construction but not necessarily prior to final approval of the cluster development plan. Building size and architecture will follow any guidelines established by the Hearthstone Community Association and any procedure for ensuring compatibility among buildings set forth by the Hearthstone Community Association and any requirements of Wilton's Code for Building and Sanitation.

Mr. Peckham said that while there is no mention of architecture in the Regulations, they included this because the Planning Board was concerned about it. Mr. Shortlidge said that areas and dimensions are not now known because the people who will be living there are designing buildings for their own use. Mr. Peckham said that at present there are only six families; there will be additional ones later. Mr. Brusseau asked whether "type" would imply "style". Mr. Little felt that it referred to whether dwellings were single family, attached, etc. The Association has said that the dwellings would be two bedrooms on the average. It was understood that a building permit would be required for each building in any case.

Motion was made by Mr. Mitchell that with reference to IV, b of the Review Checklist requirement an exception be granted from the dimensions and floor area requirement but the building site location must be shown on the plan.

So voted.

Motion was made that the meeting adjourn. This was voted.