

**MINUTES OF SPECIAL BUSINESS MEETING  
HELD BY THE PLANNING AND ZONING COMMISSION  
AUGUST 9, 2012**

**ROLL CALL:**

Members Present: Joseph Diminico, Chairman  
Andy Kidd  
Eric Prause  
Horace Brown

Alternates: Susan Shanbaum (sitting)  
John Chaput

Absent: Kevin Dougan, Secretary  
Anthony Petrone

Also Present: Mark Pellegrini, Director of Planning  
and Economic Development

Time Convened: 7:03 p.m.

**OLD BUSINESS:**

TODD BARBIERI – 49 Rock Ridge – Other – Modify the Existing Subdivision Approval:  
Remove the Requirement to Install Sprinklers (2012-074)

At the request of Chairman Diminico, Mr. Pellegrini reviewed the application. He said Mr. Barbieri purchased Lot 49 in the Birch Mountain Section VIII subdivision, applied for and obtained a building permit, and then been advised during the construction of the home that this subdivision included a provision that sprinkler systems be installed in all homes. Mr. Barbieri has asked the Commission to remove this requirement from his property. Mr. Pellegrini said that during the course of the testimony at the Commission's August 6, 2012 Business Meeting when this item was first discussed, Commission members had several questions about the information Mr. Barbieri said he obtained from the Fire Department, other questions which should be answered by Fire Department personnel, and some legal and procedural questions regarding whether they could act on all the lots in the subdivision or only on the subject property. Mr. Pellegrini said Fire Chief Robert Bycholski, Fire Marshal Larry Talbot, and Administrative Staff Attorney, Tim O'Neil as well as the applicant and his attorney, Attorney Gryk, were in attendance to answer Commission questions.

Attorney Gryk addressed the Commission noting that the requirement for the sprinkler installation is not contained on the land records except as a note on the subdivision plan map which is on file. He noted the cost to install the sprinkler system based on the estimate obtained by Mr. Barbieri of \$15,980. He noted the house will have smoke and CO detectors and there is no requirement in the Town fire code or building code for sprinkler installation in single family

homes. In response to questions from the Commission Attorney Gryk said the water capacity of the sprinkler system is a minimum of three hundred gallons which will be contained in the appropriate number of water storage tanks in the basement. He said the number of tanks depended upon the size that would fit into the basement through the doorway opening. He noted the photograph attached to the cost proposal submitted by Mr. Barbieri showed three storage tanks.

Attorney Gryk said Mr. Barbieri was asking for relief based on the hardship associated with the cost of the system, the fact that no other subdivision in Manchester has a similar requirement, the fact the seller did not inform the owner of this obligation, and the fact that Lot 49 is within 700 feet of a fire hydrant at the end of High Ledge Circle.

Attorney Gryk noted the sanitary sewer easement in favor of the Town at the rear of his client's lot is approximately 450 feet from the hydrant. Chairman Diminico said this easement would not be available all year round and would not be maintained and accessible for firefighting.

Mr. Barbieri agreed with Chairman Diminico, noting that in his conversations with Fire Department personnel that the department would not use the easement. Mr. Barbieri was also told the pumper trucks that would be deployed to the scene have a 500 gallon capacity and they can pump water from as far away as 1,200 feet from a hydrant. Mr. Barbieri reiterated previous testimony in which he noted the Holcombe Hills subdivision off of Bush Hill Road had no in-home sprinkler system requirement and is much farther away from any public water supply.

Mr. Brown asked how long it would take for the fire suppression water tanks to refill if they were emptied. Mr. Barbieri said that although he does not have his private well installed, it is estimated it would pump at approximately seven gallons per minute.

Fire Chief Bycholski noted that even though there is a fire hydrant present at the end of High Ledge Circle, because of the difference in ground elevation between the hydrant and the subject property the pressure necessary to pump the water from the hydrant up to the higher house elevation would effectively mean that there would be no or very little water pressure at the end of the hose. The Chief said to remedy this situation he would need to connect a pumper truck to the hydrant and use the pumper to pressurize the water to the house location. The Chief said the probable travel time to the site would be 10 to 15 minutes from the nearest station. He said that a severe fire at this location would likely result in the department arriving on the scene and ensuring that the fire did not spread to adjacent residential properties. The Chief also noted that having a fire sprinkler in the house would provide immediate fire suppression as soon as the event was initiated as opposed to allowing 10 to 15 minutes for the fire to progress before the department arrived on the scene. He said this was important to provide occupants an opportunity to escape the fire. The Chief said that sprinklers in this particular location made sense to him as a firefighter.

Chairman Diminico asked if the department had any flexibility as far as what type of in-house sprinkler system could be installed. Fire Marshal Talbot explained the National Fire Protection Association (NFPA) code requirement called for on the subdivision plan is the system designed to meet the needs of one and two family homes. He said this is the smallest capacity sprinkler system and requires a minimum number of gallons in storage and two sprinkler heads.

Mr. Talbot said even with this system the department would basically be protecting other homes once they arrive on the scene. He did agree there are no fire code requirements the Fire Department could enforce, and the department can only highly recommend the 13-D sprinkler system. He also noted and agreed these are expensive systems especially if they must rely on well water for supply. Finally, he said the system is not designed to extinguish a large fire, but merely to suppress it until fire apparatus can arrive on the scene. Mr. Pellegrini clarified the system size is based on a formula calculation related to the specific size and construction of the home, and Mr. Talbot confirmed that statement.

Mr. Prause said the Commission was struggling with the fact that this apparently is the only subdivision with a requirement for the installation of in-house sprinklers. Mr. Prause was curious as to why this requirement was imposed here. Mr. Talbot responded that the chief at the time, Chief Webber, was very proactive with regards to providing sprinkler systems where there was no public water supply.

Mr. Kidd asked if Chief Bycholski was in fact saying that if the department ran the hose from the hydrant to the house there would be little or no pressure because of the elevation change. Chief Bycholski said that was correct. Mr. Kidd stated he did not think the comments regarding the distance from this home from the fire station had much relevance to the argument, since there were other homes equally distant in the immediate neighborhood. He did ask if the department had a tanker to supply water. Chief Bycholski said the Town does not have its own tanker and relies on mutual aid agreements with other municipalities. Mr. Kidd asked if the Chief was familiar with any other developments that do not have hydrants. Chief Bycholski said he does not recall any subdivisions that are without public water that he had to comment on regarding that matter.

Ms. Shanbaum asked if there were any other areas where there is no public water. The Chief said there were other areas including East Middle Turnpike near New Bolton Road.

Mr. Brown stated that it seemed to him the difference being discussed was between having 300 gallons of water available at the outset of a fire compared to 500 gallons available but 10 minutes later. The Chief said that was essentially correct. Chief Bycholski also said the in-house sprinkler would provide water for approximately 10 minutes while the 500 gallon pumper would exhaust its supply in approximately two minutes.

Chairman Diminico asked if there were any suggestions for a tanker truck or in-house sprinklers in other subdivisions, for instance in the southwest quadrant of Manchester where there is very little public water supply. Chief Bycholski said there was no call for a tanker primarily because 90 percent of the Town does have access to public water.

Chairman Diminico said he understood the Chief's position and he also understood Mr. Barbieri's sense of unfairness and the implications of the cost of this system in his particular circumstance. However, he said he was leaning toward the public safety arguments and would tend to support the requirement.

Ms. Shanbaum asked if the system would need a generator to operate. Mr. Talbot said the system would need to be pressurized, and that may be by having a backup generator or nitrogen

system. Attorney Gryk said the installation quote provided to the Commission by Mr. Barbieri calls for a stand-by generator, which was not included in the contractor's quote.

Mr. Kidd asked if this was an enforceable provision, and how the Planning Commission could require such a condition as part of a subdivision. Mr. Pellegrini reviewed the history of this particular case. He said the Planning and Zoning Commission did not take a specific action on the requirement for sprinklers when the subdivision was approved in 2001. Administrative Staff Attorney Tim O'Neil said that the Commission did not mandate the requirement, but the matter was resolved during discussions between the staff and applicant during plan review, and the note was placed on the plans before they were presented to the Commission for a decision. Therefore, the requirement was approved by the Commission by default. He said the Commission cannot add a condition to an approved subdivision plan after the fact, but it is within the Commission's authority to remove requirements from a subdivision plan. Attorney O'Neil said the fact that this requirement is on the plan means that it is enforceable.

Mr. Kidd said he is looking at this matter as an all-or-nothing question: either the requirement should apply to all of the lots or it should be removed from all of the lots in the subdivision. Mr. O'Neil agreed with Mr. Kidd's approach to this matter.

Mr. Barbieri asked the Commission how this situation was very different from Holcombe Hills. He asked why the Commission did not require sprinklers at the Holcombe Hills subdivision which was approved after Birch Mountain Section VIII. He also reminded the Commission he was not informed of the requirement by the developer and if he had been he probably would not have purchased the lot or would have negotiated a lesser purchase price to compensate for the additional expense. He said the cost of the sprinkler system at this stage is an onerous burden. Chairman Diminico noted the Commission did not require it per se, but that the in-house sprinklers were offered by the developer and were agreed to by the staff and ultimately by the Commission. Mr. Brown asked if any other homes were going up in the neighborhood. Mr. Kidd said there were other foundations under construction. Mr. Pellegrini was not certain of other foundations, but he does know that the only lot sold to date was the one purchased by Mr. Barbieri. He said the other foundations may be being installed by the developer.

Mr. Brown asked if there were any other sprinkler systems besides the 13-D system which may be less expensive and would serve the same purpose. Fire Marshal Talbot said that 13-D was the only system recognized for fire suppression for single family homes by the fire code.

Chairman Diminico said he understood both the Chief's position and Mr. Barbieri's position. He said it was shameful of the developer to not disclose this requirement to Mr. Barbieri. He said he did not wish to overrule the Fire Chief, and if the developer were an honorable person he would step forward and reimburse Mr. Barbieri for this extraordinary expense.

Mr. Kidd said he was bothered there was no code requirement for sprinklers in single family homes. He said he felt in that case it should be an individual's choice as to whether to install the system for their own additional protection. Mr. Kidd said if in the future the Commission was going to consider this type of requirement it should be accommodated through a change to the subdivision regulations so there would not be any confusion as to when and whether such a

requirement would be imposed. However, he said at this time given the circumstances and the facts of this case he would be inclined to remove the restriction.

Mr. Prause asked again if it was possible to remove the condition or keep it for the entire subdivision, and Attorney O'Neil responded the Commission could take either of those actions. Ms. Shanbaum said she was leaning toward removing the condition because she did not feel it was fair or equitable that only one subdivision would be subject to the requirement. Mr. Prause reluctantly agreed, although he felt this may be moving in the wrong direction in setting a bad precedent for the Commission. Mr. Kidd he said he did not believe the Commission was setting a precedent. He said he would also be in favor of looking at this provision as an amendment to the regulations going forward.

Mr. Pellegrini noted that, beyond the specifics of the matter before the Commission, a discussion about whether or not the subdivision regulations could be amended to require in-house sprinklers as a proxy to requirements of the fire code could be problematic and would be worthy of research if the Commission was examining this matter in the future. Chairman Diminico asked if in fact, the State legislature has on several occasions been presented with bills to require sprinklers in single family homes and they have never passed, both Chief Bycholski and Mr. Pellegrini said that was in fact the case.

Other – Modify the Existing Subdivision Approval: Remove the Requirement to Install Sprinklers (2012-074)

**MOTION:** Mr. Kidd moved to remove the requirement to install in-house sprinkler systems for homes in Section VIII of the Birch Mountain subdivision. Ms. Shanbaum seconded the motion and Mr. Kidd, Ms. Shanbaum, Mr. Prause and Mr. Brown voted in favor. Chairman Diminico voted against. The motion passed four to one. The reason for the decision was that the requirement was found to be inequitable and arbitrary given that other subdivisions were approved without the requirement even though there was no public water supply.

The Chairman closed the business meeting at 8:18 p.m.

I certify these minutes were adopted on the following date:

September 5, 2012  
Date

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Joseph Diminico, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.**