

TOWN OF HAMPDEN  
MASSACHUSETTS

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John Matthews, Chair  
Judge Robert Howarth  
M. Paige Gore  
Phillip Schneider  
Edward Loiko  
Associate Member: Richard R. Green

**HAMPDEN PLANNING BOARD  
CONTINUANCE OF PUBLIC HEARING - MINUTES  
128 WILBRAHAM ROAD – HAMPDEN COUNTRY CLUB, LLC  
Wednesday, July 29, 2015  
Town House**

**Approved 8/19/15**

**Members Present:** Judge Robert Howarth, Presiding Co-Chair; M. Paige Gore, Phillip Schneider (Recused), Edward Loiko and Richard Green, Associate Member and John Matthews, Chair, abstaining from hearing.

**Others Present:** Atty. Dave Martel, Counsel for Town of Hampden, Planning Board  
Atty. Thomas Miranda, Counsel for Paul and Theresa Bechard  
Atty. Frank Fitzgerald, Counsel for Hampden Country Club  
Guy Antonacci, Hampden Country Club  
Members of the Hampden Country Club Berm Committee

**Statement of Authority:** John Matthews read the Statement of Authority.

**Legal Notice:** The Legal Notice was read.

**Reports from Other Agencies:** Reported at the initial hearing on May 13, 2015.

**Reports from Other Agencies:** Judge Howarth confirmed with the Planning Board Assistant that all reports/transmittals from all Departments have been received. This was confirmed on the May 13, 2015.

John Matthews alerted those attending that the continuance will be recorded by Mr. Paul Bechard and the Planning Board. He indicated that he will abstain from any comments pertaining to this hearing and that Judge Robert Howarth will preside. Judge Robert Howarth opened the Continuance of the Public Hearing (Case 2015-E) at 7:02 PM on the application of Hampden Country Club of 128 Wilbraham Road to amend the Special Permit with Site Plan Approval granted on November 25, 2014 (Case 2014-K) by adding additional conditions reflected on Exhibits A and B to the application

**Applicant's Presentation/Board Questions:** Atty. Frank Fitzgerald, Counsel for Hampden Country Club, LLC, applicant, now known as Greathorse, provided an update on the completion of the landscape plan for 125 Wilbraham Road, the Bechard's property. Atty. Fitzgerald stated progress has been made in planting the boundary trees and other plantings surrounding the Bechard property, and they have made changes to the plantings from what was presented due to the root systems being detrimental to the septic system. The signs have been placed for the direction of traffic in the rear of the property, and work has started on loaming and seeding of the areas. He stated they feel they have made considerable progress. Judge Howarth stated that on July 14, both he and John Matthews along with Richard Green met with Atty. Fitzgerald and Guy Antonacci at the Country Club behind the Bechard property for a site review. The sole purpose was strictly for a site visit and no decisions were made. On July 15, both M. Paige Gore and Judge Howarth did another site visit. On June 16, Phil Schneider accompanied Bob Howarth and Richard Green on a short site visit along with resident Art Booth.

**Audience Questions:** Atty. Miranda, Counsel for Paul and Theresa Bechard of 125 Wilbraham Road, provided his comments. He asked the Board if they knew what changes were made to the plantings from what was specified in the May 13 that was to be implemented and if there was any documentation of the

changes. Mr. Howarth stated that was dealt with at the June 17 Board Meeting, and evidence was presented to them relating to the root system of plantings which would adversely affect the septic system. It was decided at that time by the Board that the arborvitaes that were planted are low rooted and satisfy the Board. Atty. Miranda asked if the trees that were specified at the last meeting are the ones that are there today. Richard Green clarified there was specificity to the trees from the November 14, 2014 original; then when we met in May 2015, it was proposed that they would plant a different species of trees simply because of the root system. He stated that if the Board understands this correctly, there is no deviation from that which was approved by the Planning Board at the June 17 meeting and that is the pattern of flow. Atty. Miranda disagrees. He stated that in May, attached to the application was the landscape plan that was agreed upon between the Bechard's and the Hampden Country Club as a settlement of the law suit. Atty. Martel asked if Atty. Miranda was talking about planting plan dated January 25, 2015. Atty. Miranda agreed that is the plan that has been approved as of May 13, and he stated since May 13, there were changes in the plantings from what was agreed upon as settlement to that lawsuit. Mr. Howarth asked what the difference to the plan is and what was planted. Atty. Martel stated this is Exhibit B to the Petition to the Amendment to the Special Permit. On May 13, they changed the trees in order to not affect the septic system. The Petitioner presented to the Board that there was an issue with the original agreed upon trees and if they planted those, it had the potential to cause damage to the existing septic system thus causing a health issue.

The petitioner asked the Board and they agreed that they could go with an alternate planting to the agreement simply to protect the septic system and the public health. Atty. Miranda disagrees with that as that occurred at the June 17 meeting. He stated the new plan on June 17 was not incorporated as a new plan to the Special Permit. The Board stated "No". Mr. Howarth stated again that at the June meeting they decided they cannot follow the original plan as it will affect the existing septic system; therefore, the lower rooting arborvitaes would satisfy the plantings. Atty. Miranda disagrees. He stated at the June 17 meeting he opposed the plan they came up with. He stated the Board directed Atty. Miranda to come up with an agreed upon planting scheme. Mr. Howarth asked is there an agreed upon planting scheme. Atty. Miranda stated there is not one agreed upon. Mr. Howarth stated then the Board's stands. Atty. Martel stated that the plantings that are there now are inconsistent with the plantings shown on Exhibit B from January of 2015. Atty. Miranda said he is saying approval for a change of that planting was never made, never submitted as an application for approval of the change of the plantings, and there has been no application to change the terms of the Special Permit. He stated that's the plan that is in effect (referring to the January 2015 plan). There was discussion about what was discussed on June 17 and what was agreed upon if work not completed. Judge Howarth read from Exhibit A, sub-section d, "agree to replace any trees as directed by the Planning Board"—the Board directed in June, per Mr. Howarth. Atty. Miranda stated that the plantings that are there are not acceptable and this will not end tonight.

Atty. Miranda stated the Board had no other evidence because he was not given notice there was going to be a request for a change in the plantings until he arrived at the hearing; so, he presented information that he was able to discern with regard to what is being proposed. Richard Green asked if there was discussion that the two counselors get together and discuss their concerns. He asked if that happened. Atty. Miranda stated on July 9 he received a revised proposed planting plan from Atty. Drost. He responded two weeks later to Atty. Drost (the week of July 20<sup>th</sup>). Richard Green asked if the facts he is presenting to the Board were seen by the applicant. Atty. Miranda is not sure they have seen these. Atty. Miranda provided a letter of his response to Atty. Drost (Exhibit #1). Atty. Miranda discussed the various types of trees and also what was planted on the westerly side of the Bechard property. Atty. Miranda summarized his comments pertaining to the Country Club and compliance to what they had agreed upon. He provided various sheets of different species (Exhibit #2) and discussed what was agreed upon, what was planted, and what was reflected on the plan (Exhibit B). Richard Green asked what has been planted today, and not necessarily the species, does it agree with height and agree with the plan. Atty. Fitzgerald stated there was never an "agreement" in the height of the trees. Atty. John Drost's proposal indicated specific species. Atty. Fitzgerald read from their landscape architect's letter that it is his opinion these planting will create a substantial screen and is in conformance with the intent of the proposed plan. Bob Howarth stated there is nothing on the plan reflecting trees over 8 feet. Atty. Fitzgerald stated their intent is to be responsive to the Planning Board and create the situation in which accomplishes objectives of creating a safe and attractive

environment. He stated the fact that some of the trees have changed and the fact that the counsel for the neighbors wants trees substituted to accomplish the same objective is not fair to his client as a citizen of this community. Atty. Fitzgerald stated it is almost punitive. He stated they have planted appropriate trees that will create a buffer that was originally intended. There are arborvitaes growing 40-60 feet  
The fact is Greathorse has accomplished the objective the Planning Board set for them to do.

Mr. Ted Zebert, Hampden Conservation Commission, asked what state these trees are coming from. Bob Howarth asked what difference does this make. Mr. Zebert asked how any trees and are they certified clean. He stated if you bring in trees from out of state that are not certified, this could cause the town problems.

Atty. Fitzgerald stated the Special Permit granted contains a review provision so that if these trees don't grow or they don't accomplish the objective, the Planning Board has the ability to have them replaced. That is within the scope of the Special Permit, and if they aren't replaced, that is in violation of the Special Permit.

Many residents expressed their comments concerning the approved plan and the trees that were planted.

Atty. Miranda presented a document of the trees that were presented by Greathorse as being the trees on the January 25 plan; these are the trees that were agreed upon (Exhibit #3).

Mr. Green stated the end point wasn't the species of trees. The endpoint was the plantings would protect the public's safety without impacting the public health.

Bob Howarth stated he is comfortable with the situation as it is right now.

Atty. Martel suggested that it be appropriate for the other members of the Board so that it is clear on the record that based on Judge Howarth's site visit of the property, the plantings that are there now are in substantial compliance with the proposed screen shown on the January 25<sup>th</sup> plan. Judge Howarth agreed with Atty. Martel.

Richard Green made the motion that the Hampden Country Club, now known as Greathorse, has substantially complied with the terms of the Special Permit on May 13, 2015. M. Paige Gore seconded the motion. All in favor so approved (4-0).

Meeting Adjourned: 7:49 PM.

cc: Assessor's Office  
Building Dept.  
Conservation Commission  
Highway Dept.  
Moderator  
Selectmen  
Zoning Board of Appeals  
Office Files

Submitted by: Joanne Fiore, Adm. Assistant

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