

**Town of Northwood
Planning Board Work Session
June 22, 2017**

MINUTES

Chair Robert Strobel called the meeting to order at 6:30 p.m.

PRESENT: Chair Robert Strobel, Selectmen's Representative Rick Wolf, Joe McCaffrey and Vice-Chair Lee Baldwin.

TOWN STAFF PRESENT: Land Use Secretary Susan Austin, and Town Planner James Burdin

VOTING DESIGNATION: Chair Robert Strobel, Selectmen's Representative Rick Wolf, Joe McCaffrey and Vice-Chair Lee Baldwin.

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June 8, 2017

Mr. McCaffrey made a motion to accept the minutes of June 8, 2017. Selectman Wolf seconded. Motion carried 3/0/1. Mr. McCaffrey abstained.

PRELIMINARY CONCEPTUAL CONSULTATION

Chair Strobel stated that this was a conceptual only. Any comments or statements from the applicant or the board are not binding.

William Fahey, 11 Strafford Road Map 231 Lot 43. Subdivision-Previous owner subdivided in 2006; voluntary merger in 2014.

Mr. Fahey was present to discuss subdividing his property. When he bought the property he received one deed, but then found out that there was a subdivision done in 2006. He stated that he voluntarily merged the property. Now he would like to subdivide it again. He would like to try and get the application in for the July agenda. Chair Strobel stated that he didn't see any red flags, he stated that he doesn't think there were any major ordinance changes since 2006.

NEW CASES

CASE: 17-06. Pet Tails Rescue, Maureen Cahill 1172&1174 First New Hampshire Turnpike, Map 216 Lot 74. Applicant seeks a change of use from an office to a pet rescue and adoption business.

Selectman Wolf made a motion to accept the application as complete. Ms. Baldwin seconded. Motion carried 4/0.

Abutters List:

PF Reality Trust, 1180 First NH Turnpike, Northwood.
Richard Bojko and John Miller, 1182 First NH Turnpike, Northwood.
Coe Brown Academy, 907 First NH Turnpike, Northwood.
State of NH Dept of Transportation, Concord.

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Swethal Family Revocable Trust, PO BOX 138, Northwood.
Giles Revocable Trust of 1992, PO BOX 4190, Portsmouth.
Abutters present: PF Realty Trust (Rich Bojko)

Maureen Cahill, along with her attorney, Maureen Pomeroy were present to discuss her case. Ms. Cahill stated she would like to open a pet rescue and adoption business where the location would be used as a temporary location for animals that are rescued from high kill shelters in the south and bring them to their foster homes or forever homes. 60 to 70 percent of the animals are already adopted before they get to New Hampshire.

Chair Strobel stated that the applicant was requesting waivers from the following:

The applicant has requested that the board waive the \$200 application fee associated with a minor site plan application. This fee is separate from fees associated with providing required meeting notice, which the applicant has paid.

The applicant is requesting a waiver from submitting a formal plot plan done by a licensed surveyor, and submitting aerial photos instead.

The applicant is requesting a waiver from Section 9 for storm water drainage.

The applicant is requesting a waiver from H19 for off street parking and loading.

The applicant is requesting a waiver section K2 for landscaping

The applicant is requesting a waiver from Q for sidewalks.

Additional information is provided for yard sale or event area, a copy of the license from the Department of Agriculture, information on commercial waste removal service, and foreign carbon monoxide detectors.

Chair Strobel opened the public comment.

No comments

Chair Strobel closed the public comment.

Mr. Burdin discussed the waivers. The applicant took staff's recommendations for the waivers to section 7, so the waiver requests aligns exactly with what was outlined. The staff didn't recommend a specific set of waivers to section 9, but they did go back and identify exactly which sections that they wanted to request a waiver from.

Chair Strobel stated that the application fee is for planner and staff time for review. In this case, he stated he's be amenable with granting it at the minimal site plan cost,

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which is \$100. There was a lot of review time involved in this, so he wouldn't be in favor of waiving the entire amount.

Mr. McCaffrey made a motion to grant the waiver to accept an application fee of \$100 in lieu of \$200. Selectman Wolf seconded. Motion carried 4/0.

The applicant is requesting a waiver from submitting a formal plot plan done by a licensed surveyor, and submitting aerial photos and a tax map instead.

Mr. McCaffrey made a motion to grant the waiver for VII (b) (1) and VII (b) 4-5, to accept the aerial imagery submitted by the applicant as Exhibit D, "Aerial Photography of Property", in lieu of an Existing Conditions Plan. Selectman Wolf seconded. Motion carried 4/0.

Storm Water Drainage: Major and Minor site plans are required to submit plans for storm water disposal facilities and a drainage analysis of Storm Water Management Plan prepared by a licensed engineer. Developments are also precluded from increasing, modifying, or altering existing patterns of off-site drainage, erosion, or sedimentation caused during development of the site or as a result of the development itself. In this case, site development is limited to construction of a proposed fence. Mr. Bojko joined the board at the table. He stated that the only issue they have had with drainage was when one of the culverts was clogged by a tree stump.

Mr. McCaffrey made a motion to grant the waiver for the Storm Water Drainage Section IX(D). Ms. Baldwin seconded. Motion carried 4/0.

Off-Street Parking and Loading. The applicant has submitted information regarding the frequency of visitors and number of vehicles that could be accommodated by the site. Chair Strobel stated that he wanted to point out the additional information pertaining to events and garage sales. Ms. Pomeroy stated that they estimate about 10 to 15 parking spaces available. Mr. Burdin stated that the standards for minimal impact applications state that "all developments shall make adequate provisions for off-street parking and loading facilities for use by both employees and patrons." This would be all that the board would be considering after they grant the waivers.

Mr. McCaffrey made a motion to grant the waiver Section H, 1-9. Selectman Wolf seconded. Motion carried 4/0.

IX (K) Landscaping. Mr. Burdin stated that a waiver to this section may not be necessary because this site was originally developed prior to the current site regulations, but a waiver to the street tree requirement and a determination by the board that other aspects of the existing conditions are sufficiently landscaped would make the property conforming.

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Mr. McCaffrey made a motion to grant the waiver for Section IX (K), Landscaping. Ms. Baldwin seconded. Motion carried 4/0.

IX (Q) Sidewalks. Mr. Burdin stated that this section includes provisions for installation of sidewalks along road frontage and from the principal building to the street. Ms. Cahill stated that there isn't anywhere to install sidewalks.

Mr. McCaffrey made a motion to grant the waiver request for Section Q, sidewalks. Ms. Baldwin seconded. Motion carried 4/0.

Ms. Pomeroy stated that her client has been trying to get a licensed septic designer to come and inspect but she hasn't had any luck getting one to come out. She stated that they would ask for the waiver, but would be okay with a condition as part of the occupancy permit. Mr. Burdin stated that sewerage requires additional planning documents, typically more than you would see from a minimal impact. He stated that if the board considered granting a waiver to section 9f, they do so to accept a written confirmation from a licensed septic designer indicating that the existing system can accommodate the change of use in lieu of any required sewerage plan.

Mr. McCaffrey made a motion to grant the waiver for 9F, sewerage, to accept written confirmation from a licensed septic designer indicating that the existing system can accommodate the change of use, in lieu of any required sewerage plan. Selectman Wolf seconded. Motion carried 4/0.

Mr. Mc Caffrey made a motion to approve the application for Case #17-06, Pet Tails Rescue, with the following conditions:

- **All State and local permits obtained.**
- **Letter from licensed septic designer**

Ms. Baldwin seconded. Motion carried 4/0.

CONTINUED CASE

Case# 17-01 1334 First New Hampshire Turnpike LLC; 1334 First NH Turnpike; Map 110, Lots 28 & 29.1. Expansion of existing restaurant to include commercial brewery and function room with associated parking and stormwater facilities.

Neil Rapoza from Civil Consultants was present. He stated that the DES alteration of terrain permit has been obtained. They prepared a memo regarding the drainage design and the requirements of the state compared to those of the town to alleviate the need for an outside engineer to do a review of it. Chair Strobel stated that he felt that that there should be a waiver request for peak flow rate and greater than 90%- section 9 2.a.2.a.6, even though it is "better" than the town requirement. Approving it without

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a waiver says that essentially the regulations have been met when it's shown that they haven't. Mr. Rapoza wrote a waiver request and submitted it to the board.

Chair Strobel opened public comment:

Tony Matras, an abutter to the property was present.

Mr. Matras stated that as he's observed the process, he wanted to express that he appreciates the effort that's gone into the planning process. He stated that he appreciated that process that's gone into the minimal setbacks, impact and foot print, plans, ideas etc. As an abutter and as someone who has lived in the area and farmed the land, it's greatly appreciated.

Chair Strobel closed public comment

Chair Strobel listed the potential conditions-

A security bond be in place within 90 days.

The project be completed within 4 years

All state and local permits obtained.

Mr. Burdin stated that they have received an additional waiver request from the applicant. He stated that the applicant requested a waiver from the requirements of design standards Section VIII 2.a.2 and 2.a.6, with a regard to development resulting in 50% of the two-year peak flow, and greater than 90% of the stormwater runoff volume ion the two-year storm. The applicant has submitted the conditions they are proposing instead. The granting of this waiver will not result in negative downstream, impacts.

Mr. McCaffrey made a motion to grant a waiver for the peak flow rate and greater than 90%, from section VII 2. a. and 2. a.6. Selectman Wolf seconded. Motion carried 4/0.

Mr. McCaffrey made a motion to approve the application for case number 17-01 with the following conditions:

- **A security bond be in place within 90 days**
- **The project is to be completed within 4 years.**
- **All state and local permits be obtained.**

Selectman Wolf seconded. Motion carried 4/0.

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Mr. McCaffrey stated that he wanted to know what they are doing as Planning Board to stay consistent with decisions? He stated that in his opinion they try to apply the decisions as equitably as possible and consistently. We try to treat everyone fairly. He stated that there are two lots on his road being developed which were supposedly approved subdivided lots. Ms. Austin stated that the information was supplied to the building inspector. Mr. McCaffrey stated that he's seen the plats on them with 2006 and 2008 dates. These lots were approved without driveways. There was a driveway ordinance in place, and the requirement of 250 feet sight distance which predates this by about ten years, and yet there are no driveways noted on the plats he has looked at. The result of this is that one of these lots is being put in with a totally blind driveway. It's going forth. The building inspector is aware of this. Why weren't any driveways on it? Chair Strobel stated his understanding was that the driveway permits are the purview of the road agent. Mr. McCaffrey stated that yes, he does have to approve it. Selectman Wolf stated that the board denied Mr. McCaffrey for 20 feet when he applied, right down the street from these lots. Mr. McCaffrey stated that we have asked consistently for people to have proper sight lines. This situation is impossible to be within 250 feet. The one lot is in serious noncompliance. I don't see how the road agent can go forward with this, but I'm wondering how the Planning Board will deal with this? Selectman Wolf stated that he doesn't know how the road agent can issue a permit on this lot. Mr. McCaffrey stated that the road agent makes the final approval. Chair Strobel stated that when the subdivision site plan is acted upon, that's when the requirements and regulations are listed. He stated that he would make the assumption that the regulations have the sight distance on it. If the planning board approved the subdivision, without a waiver of sight distance, or just didn't pay attention to it, then it's a mistake from the planning board's perspective. The road agent grants the driveway permit, and the planning board is out of the process. Mr. McCaffrey stated that according to the ordinance, the road agent has to comply with the ordinances when he grants the permit. Mr. Burdin stated that the way he is understanding the relationships, is that if there is something that you're not showing on a site plan explicitly, if you don't have a waiver or a variance to a provision of code, you're assumed to be compliant with the code. So, if no driveways were shown at all on the subdivision plot, that's probably a deficiency of that process at the time, nevertheless, that would not free you from the requirements of the code from where you can locate those driveways. He stated that being that he is not an engineer or a lawyer, there is case precedent saying that a permit was issued in error...Selectman Wolf interjected that no driveway permit has been issued. Mr. Burdin stated that then it was a code enforcement issue. Mr. Burdin stated that if there was permit issued for a driveway that did not comply with code, and they did not meet the waivers or the variances that would allow them to do that, again his understanding is that it would be considered a mistake by a town employee and wouldn't prevent the town from correcting that mistake, unless that mistake were to go on for long enough that you

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were considered to have vested rights in the project. So, whether it's a matter of a permit that's been issued that shouldn't have been or whether it's activity that's been happening without a permit, the sooner code enforcement is notified, the sooner they can address it and try to bring that site into the process and change what they are doing to comply with code or bring them in to the ZBA to grant a variance. Mr. McCaffrey stated that this is beyond a variance, this is a serious issue in terms of this particular driveway. Chair Strobel stated safety issue aside, this has nothing to do with the planning board, it's a code enforcement issue. Mr. McCaffrey stated that what's peculiar is that this previous planning board was aware of the sight distance requirements because they imposed one on him. But here was a subdivision taking place in the same time frame, and nothing. If it was an oversight of sorts, he finds it peculiar, and he is bringing it up because it is the very kind of thing that he thinks anybody in this town...consistency to him is the only thing that gives law any meaning. Chair Strobel stated that it's possible that a mistake was made, and it has nothing to do with the planning board at this time. If there is a problem with a previous board, and it's being used to violate another aspect, which in this case is public safety, that is a matter of code enforcement. Mr. Burdin stated that it's code enforcement first, but if it's an issue and they decide to appeal, then that's for the ZBA and if they decided to take it further it would be an issue for the courts. It wouldn't come back to this board unless there was an amendment to the subdivision. Mr. McCaffrey stated that again, he knows the board at that time was aware of the sight distance provision because he had them imposed on him when he tried to subdivide. The other part of it is we don't know if they did a site walk on this. It would have been very apparent if they did. Chair Strobel stated that it wasn't the board's responsibility to correct this. Mr. McCaffrey stated that there is an RSA that allows the board to disapprove a previous approval. They would have to show cause. Chair Strobel stated that in this case, in order for him to want to open this back up again, he would want to hear from code enforcement.

Master Plan Update

Chair Strobel stated that Mr. Kreider wasn't present, but he has expressed distain that meetings have not been well attended. Chair Strobel stated that he directed that at himself because he did agree to the second Tuesday of the month but he did not put it on his calendar. Mr. Kreider will be sending out reminders for everyone.

CIP

Chair Strobel stated that he met with Mr. Gunter earlier and he gave him copies of all the town projects. He's about 2/3 into the spreadsheet.

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Staff Items

Mr. Burdin stated that they have received an updated copy of the bond from Docko, and the site plan revocation is not necessary because he has met all of the conditions.

**Ms. Baldwin made a motion to adjourn at 9:15 PM. Mr. McCaffrey seconded.
Motion carried 4/0.**

Respectfully Submitted,

Susan Austin, Land Use Secretary.