

**Town of Northwood
Planning Board
July 25, 2013**

Chairman Robert Strobel calls the meeting to order at 6:45 p.m.

PRESENT: Chairman Robert Strobel, Lucy Edwards, Lee Baldwin, Alternates Victoria Parmele and Adam Sprague, Town Planner Elaine Planchet, and Board Administrator Linda Smith.

VOTING DESIGNATION: Bob Strobel, Lucy Edwards, Lee Baldwin, Victoria Parmele, and Adam Sprague.

ABSENT: Vice-Chairman Timothy Jandebour, Selectmen's Representative Scott Bryer, Joseph McCaffrey, and Rick Wolf.

MINUTES

July 11, 2013

Ms. Edwards makes a motion, second by Ms. Baldwin, to approve the minutes of July 11, 2013, as amended, as follows:

Page 1: Add: "...subdivision..."

Page 3: spelling error

Motion passes; 3/0/2. Ms. Parmele and Mr. Sprague abstain.

PRELIMINARY CONCEPTUAL CONSULTATION (PCC):

Dianna and Richard Smith Jr.; 9 Ginger Snap Lane.

Federal Firearms Licensing

Richard and Dianna Smith are present regarding a possible site plan application for internet sales of firearms.

Ms. Planchet explains that she has had discussions with David Hickey, former building inspector and Linda Smith, Board Administrator, regarding the proposal. She states that the determination by staff is that a site plan would be required.

Ms. Planchet explains the purpose of the Preliminary Consultation is for a general discussion of the proposal to be held with the applicants and board and that any discussion is non-binding both on the part of the potential applicants and the board.

Ms. Dianna Smith explains that the proposal is for an online business to sell gun parts and used guns. She states that they have applied to the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) for a Federal Firearms License (FFL). She states that there would be no impact as sales will occur from the internet only. She adds that they hope that the proposal will be applicable under the Home Occupation Application as opposed to the Home Business Application.

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Ms. Dianna Smith states that the ATF does require that there be availability for firearm transfers, which will be done by appointment only. She states that there will be no signage, no sales from the home, and no customers coming to the home. Mr. Smith states that this is similar to E-Bay but with firearms.

Ms. Planchet refers to page 11 of the Northwood Development Ordinances (NDO) for the terms and definitions for a home business and home occupation. She states that the home business requires a site plan; home occupation does not. She states that the Table of Uses, in the NDO, has retail uses listed in Column 2, which requires regular criteria as well as performance criteria.

Ms. Planchet explains that it is her understanding of the FFA license that there must be hours open to the public. She states that if this is the case and the Smiths are required to be open to the public, then this opens the door for local regulations, which indicate that this is a retail use.

Mr. Smith states that there will not be any signage, no advertising, and no store front. He states that they will meet with a customer by appointments only and only for transfers. He explains that a transfer is for purposes of receiving a firearm for a customer, completing the paperwork for that customer and submitting it to the ATF, and then transferring that firearm to the new owner. Mr. Strobel requests additional detail of sales and delivery. Mr. Smith states that sales that are local are transferred by appointment and out of state would be via UPS/USPS. Mr. Smith adds that parts do not require ATF involvement, only the guns.

Ms. Planchet asks if a gun could be purchased via the internet. Mr. Smith replies that there are criteria that must be met and he explains that these criteria are that there would need to be a Federal Fire License (FFL). Further discussion ensues relative to the purchase process including a background check. Mr. Smith explains that a background check is done through the state police, required to purchase either in person or through the internet. Mr. Smith adds he would like to work with gun parts.

Ms. Planchet references an email from an ATF investigator which requests that ATF receive confirmation from the town indicating that zoning ordinances have either been met or not. She states that the Code Enforcement Officer Dave Hickey, prior to his retirement, indicated he believed that this is a retail use, along with the board administrator and town planner. She states that the transfer is a technical piece that must be done for the federal firearms laws; however, looking at the activity of the proposal from a land use point of view, an object is received and money changes hands, and the effects of that for land use are similar to that of a retail use. She adds that if the decision was made by the

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code enforcement officer; she is not sure what the planning board can do or whether the board may override the decision.

Mr. Strobel states that he feels that the FFL is a service provider and is complementary to the use. He states that because there is an exchange of funds for a product, he feels that this is a limited use and tends to agree that it is a retail use. Ms. Dianne Smith states that the only fee received is the transfer fee. Mr. Smith states that he is more of an agent. Ms. Planchet states that this is still a transfer of funds for a service or product.

Ms. Planchet states that the ATF also requires hours of operation where there is a time set aside open to the public and that is a retail use. Mr. Smith states that there will be public hours by appointment only; this is a part time business.

Ms. Linda Smith states that the board addressed a similar proposal a few years ago where the applicant requested to sell vehicles on a wholesale basis. She states that these vehicles were not on site; they were sold through auctions, etc. She explains that this process required the applicant to go through the state's dealer licensing process. She states that this is similar to the firearm license and requires hours to be open to the public, which requires site plan review.

Additional discussion is held regarding definitions and the options of applications. Mr. Strobel states that he feels that the application could be classified under a home business since the product is not owned by the applicant, as they are providing a service to transfer. Mr. Smith states that is correct for the transfers; however, anything he sells he owns.

Ms. Planchet states that there is a sale taking place; there is a product being exchanged for money and from a land use point of view, this is retail. Discussion ensues.

Mr. Strobel states that there are a number of items that may be applicable for waivers that the board could consider. Ms. Planchet adds waivers require proper justification.

Ms. Linda Smith suggests a straw poll to sense whether or not the board would accept a hand drawn sketch and Ms. Planchet adds that the board could also poll regarding the type of application. Discussion ensues.

Ms. Baldwin states that she believes that there should be a minor site plan filed; which would be a benefit in the long run. Mr. Strobel states that he agrees and adds that there would be many waivers that could be requested. Ms. Parmele agrees as filing the application would be cleaner. Ms. Edwards agrees that a

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minor site plan application should be filed as there is retail involved. The consensus expressed of the board is that a sketch would be sufficient. Ms. Linda Smith explains copyright infringement concerns regarding surveyed plans. Mr. Smith states that he would like to keep this as a low key business with no test firing as he enjoys his neighbors.

Case 13-04: Loon Estates Cooperative, Inc.; Lakeshore Drive & First NH Turnpike; Map 109/Lot 97. Applicant seeks a condominium subdivision.

Chris Berry, President of Berry Surveying & Engineering, is present representing Loon Estates. He states that the proposal is to separate one of the buildings from the other buildings on the property.

Mr. Berry explains that the planning board granted an approval for this proposal over a year ago and since that time some management of the cooperative has turned over. He states that he, their attorney, and new management were not able to get the plan recorded within the year provided. He states that the proposal is to request re-approval of the condo conversion previously approved by a former planning board.

Mr. Berry explains that a variance to subdivide the property was requested from the Zoning Board of Adjustment; however, the ZBA denied the application as there were other options for subdivision. He states that there are many residential structures on the property along with a commercial property. He states that the subdivision is being proposed in order to separate the commercial and residential structures; one individual would own the commercial structure and limited common area and the co-op will continue to own the individual units as they currently do. He adds that they would also own some common area. He states that the area is located off of Rte. 4 and Lake Shore Drive.

Ms. Parmele makes a motion, second by Ms. Edwards, to accept the application as complete. Motion passes unanimously; 5/0.

Mr. Strobel opens the public hearing at 7:30 and reads the abutters list. Abutter present is JD McCartin.

Mr. Berry states that any division in ownership requires approval of the planning board; however, no new lots are being created. He states that this is a separation of ownership, and should the commercial building be sold to a single owner, then the Loon Estates and the single owner are to be in a condominium, with limited common areas. He states that this means that they are allowed to

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share common land. Mr. Berry adds that this is the exact same plan as previously approved.

Mr. Strobel asks if the current commercial business is tied into the septic. Mr. Berry replies that currently there is no septic for the commercial building. He adds that they are required to include this in the new septic system. He explains that a septic disposal design would be required to install a bathroom in the commercial building and that this is still considered one lot.

Ms. Planchet states that there is a waiver request for a portion of the fees. She states that members have a copy of an e-mail in their packets which is a reply to the board's questions from the work session. She states that Mr. Berry replied that the condominium documents are not available at this time. Mr. Berry explains that the condominium documents have not yet been drafted by the attorney and requests that they be added as a condition of approval to be provided at a later date.

Mr. Berry explains that the request for the waiver of fees are the per lot fees; the base fees and notifications are fees that they will offer to pay.

Mr. Strobel asks about the limited common areas and how there is a common area as the term exclusive use to the land is used. Mr. Berry states that after talks with the attorney, this is not exclusive, they own the land and the term exclusive is incorrect. He suggests inclusive.

Mr. Strobel reads a letter provided by member Joe McCaffrey into the record expressing concerns relative to confusion and he requested that the case be tabled; he suggested that an opinion be obtained from town counsel.

Mr. Berry comments that he is not clear as to the confusion. He states that Mr. McCaffrey was a member of the previous board at the time of approval. He states that this is a right of use.

Ms. Planchet states that, in looking at the minutes from 2012, it seemed that this was a proposal for the commercial building to be a condominium, not the lot itself. She explains that the condominium documents were discussed at the first meeting and they were not a condition of approval. She explains that in looking at the old and new plans at the work session two weeks ago, a board member asked if the condominium conversion was proposed as a way to get around the subdivision requirements.

Further discussion is held regarding the old septic system. Mr. Berry explains that if there were problems the new system would be there for them to utilize.

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He adds that nothing is changing on the plan and NHDES has reviewed the plan. He agrees that for the future there is a better situation.

Mr. Strobel asks for public comments. Mr. McCartin asks for copy of the plan.

Ms. Edwards makes a motion, second by Mr. Parmele, to grant the waiver for the \$200 per lot fee. Motion passes unanimously; 5/0.

Ms. Parmele makes a motion, second by Ms. Edwards, to approve the application with the following conditions:

- **Updated plan with typographical corrections and signatures;**
- **Condominium documents be reviewed and deemed satisfactory by town counsel;**
- **Recording of the plan at the Rockingham County Registry of Deeds;**
- **All conditions be met within 12 months.**

Motion passes unanimously; 5/0.

NEW BUSINESS:

Review of Proposed deed conveyance from Town of Northwood to Cove Village District per RSA 41:14-a.

Ms. Smith explains that the roads in this area were taken as tax deed and have now been conveyed back to a newly created district called Northwood Cove Village District. She states that the town has been asked for a deed stating that the town holds no interest or any rights to the road network. She states that any time the selectmen convey or receive properties; town counsel has advised the selectmen to hold public hearings. She states that under this statute the planning board and conservation commission are required to review and provide any comments/concerns.

Mr. Strobel expresses concern with the maintenance of the roads and being in close proximity to the lake relative to water quality.

Alternate Adam Sprague leaves at 8:15 p.m.

Ms. Edwards makes a motion, second by Ms. Baldwin, that the planning board has no comments on the transfer of the deed conveyance to the Northwood Cove Village District. Motion passes unanimously; 4/0.

It is the consensus of the board that Ms. Smith will send a memorandum to the selectmen.

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OLD BUSINESS:

Master Plan Update Discussion

A discussion is held regarding the pros/cons of having any presence at the Bean Hole Bash.

Ms. Planchet states that the vision statement document is draft only as the board has not voted to approve it; it was completed by her based on the board's input at the June 27 meeting. Mr. Strobel states that the vision statement is the broad view and the goals are how the board hopes to get this done. Ms. Edwards states that she does not see how the bean hole is going to work for this; and agrees that this is out of the process by having it done outside a public forum. Ms. Morrill indicates she can assist and Ms. Parmele states she will be there as SRPC will have a table. Ms. Smith states that the event is a community event and therefore people may not want to talk about town business.

Discussion ensues relative to members and their role as members/individuals and what benefit could be obtained in having draft vision document available to the public at the Bean Hole Bash. Ms. Smith states that members cannot speak for the board.

A discussion is held regarding item #4 on the June 27 Draft. Ms. Parmele suggests changing the wording. The consensus of the board is to change #4 as follows: to promote safe and effective transportation in Northwood.

Mr. Strobel requests that copies be made of the vision statement draft proposal and be available for the Bean Hole Bash.

Water Resources Subcommittee

Ms. Morrill asks for additional direction from the board for the water resources subcommittee. A discussion is held regarding adding members. Ms. Planchet states that Mr. Jandebour will be having a table with sign-up sheets for volunteers at the Bean Hole Bash, and she could include the water resources subcommittee on the list. Clarification is given on what Ms. Planchet had said regarding the role of the subcommittee and that the board decided to charge the subcommittee to address the master plan update. Mr. Strobel explains that he believes the sub-committee should be working on gathering information on the current state and projected future problems.

Mr. Strobel explains that he believes that the regulations should be the last part of the update, based on the goals, vision, and data that has been collected. Further discussion is held on how that data should be collected and compiled. Ms. Morrill feels that the goals were submitted previously. Mr. Strobel suggests talking with the Conservation Commission to get a plan on how to compile

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information received and SRPC to find out what sources of information are available. Ms. Parmele states that she will provide Ms. Morrill with a document for communities to draft water resource plans that she worked on previously.

Further discussion is held regarding how the master plan draft will be put together. Ms. Edwards suggests that individual sections be compiled and then use that information to formulate the goals per section.

Ms. Planchet states that it is important for the board to determine how it will go about actually drafting the master plan update. Discussion ensues. Mr. Strobel asks Ms. Planchet to resend the 4/11/13 draft master plan outline to members and add it to the agenda for the next meeting.

Adjournment

Motion to adjourn is made at 9:15 by Ms. Parmele, seconded by Ms. Edwards. Motion passes unanimously; 4/0.

Respectfully submitted

Lisa Fellows-Weaver
Board Secretary