

Planning Board Minutes 06/09/11

Contributed by Lisa Fellows-Weaver
Friday, 24 June 2011

Planning Board

Minutes

June 9, 2011

Official as of June 23, 2011

Chairman Robert Strobel calls the meeting to order at 7:02 p.m.

PRESENT: Chairman Robert Strobel, Vice Chairman Tim Jandebeur, Herb Johnson, Rick Wolf, Babette Morrill, Joe McCaffrey, Town Planner Elaine Planchet, and Board Secretary Lisa Fellows-Weaver. Alternate Adam Sprague arrives at 7:05 p.m. Selectmen's Representative Scott Bryer arrives at 7:15 p.m. Alternate Victoria Parmele arrives at 7:20 p.m.

VOTING DESIGNATION: Bob Strobel, Tim Jandebeur, Babette Morrill, Joe McCaffrey, Herb Johnson, and Rick Wolf.

ABSENT: Alternate Pat Bell.

MINUTES:

Mr. Jandebeur makes a motion, second by Mr. McCaffrey, to approve the May 26, 2011, minutes, as amended, as follows:

Page 2: formatting correction

Page 3: Delete paragraph and replace with the following sentence:

Discussion ensues regarding the storm water treatment design.

Page 3: Add: …owned by…; Delete: …this…; Add: …stormwater flow off site…

Page 5: capitalization correction

Motion passes; 5/0/1. Mr. Johnson abstains as he was not at the meeting.

CASE 09-14: Mark Lopez (Family Dollar), Rte. 202 & 9. Map 234; Lot 7; Sublot 2. Applicant is seeking a site plan review for construction of an 8,000 sq. ft. retail store to include Family Dollar. (Property currently owned by Beth Grimes, and Gregory Lalish.) Application accepted as complete on 2/25/10; 65 day 5/1/10. Continuances successively granted; to 6/9/11.

Chris Berry is present along with the applicant Mark Lopez.

Mr. Johnson recuses himself for this case.

Selectmen's Representative Scott Bryer arrives at 7:15 p.m.

VOTING DESIGNATION: Bob Strobel, Tim Jandebeur, Rick Wolf, Babette Morrill, Joe McCaffrey, Rick Wolf, and Scott Bryer.

Ms. Planchet states that the public hearing has remained open from the May 26 meeting.

Mr. Strobel reviews items provided in the member's packets. He notes that Berry Surveying has provided a revised stormwater management plan and a list of outstanding items. Mr. Berry states that the planner has noted some additional items on the plan set that need to be modified and he believes they could be a part of the conditional approvals. Mr. Berry states that he has spoken with David Wakeman of the fire department about the fire lane and he has approved the proposal. Ms. Planchet states that a copy of an e-mail from Mr. Wakeman indicating his agreement is in the member's packets.

Mr. Strobel states that at the last meeting the board left off looking at potential conditions of approval. A discussion is held regarding the easement language. Mr. Strobel states that he agrees that this issue is a private matter; however, he would like to have a copy of the easement, once signed, on file at the town hall. Mr. Berry replies that the document has been forwarded to their attorney to draft the language. Ms. Planchet states that the requirement of the board is to make sure that there is access available and clearly there is.

Ms. Morrill states that part of the stormwater treatment runoff appears to go onto the other property. She states that a waiver has been granted by the board and she expresses concern with the fact that the agreement has not been signed and questions whether what the board has approved would be inadequate. Mr. Berry replies that the construction cannot move forward without the easement from the abutter. He states that the easement must be finalized and signed by both parties prior to the chairman signing the plan.

Ms. Morrill asks about the right of way. Mr. Berry states that the easement talks about the construction items so the easement will talk about side slope grading, drainage pipes, and outlet protection such as the rip rap apron. He states that this will be recorded at the registry of deeds and that the easement essentially discloses the information.

Alternate Victoria Parmele arrives at 7:22 and is added to the voting designation.

Mr. Strobel refers to Underwood's comments and asks about notes on the plan regarding maintenance and vegetation along the road for site plan and also noted on the landscaping plan. Mr. Berry explains their proposal.

Mr. Strobel states that there have been discussions regarding construction time frame. He states that the applicant's estimate was noted as 4 months. Mr. Strobel asks if 12 months is an acceptable time frame and Mr. Lopez concurs.

Mr. Strobel states that another potential condition mentioned at the last meeting is the pre-construction meeting and monitoring by the code enforcement officer or peer engineering for the installation of the stormwater treatment systems. Mr. Berry states that they have agreed to do this and he asks who from the town will review it. He adds that they would inform the code enforcement officer. Ms. Planchet states that the code enforcement officer has no control over implementation; he would just be overseeing what is on plans.

Mr. Strobel refers to a comment from Ms. Smith relative to establishing an escrow account for soil erosion and vegetation control. Mr. Strobel asks if the applicant has an estimate for the value of the land for the account. Mr. Berry replies that they can provide an estimate; however, he states that the applicant would like to request that the board look at the actual need. Mr. Lopez states that they have been involved with the proposal for two years now; they have been through the courts for this project and are still here. Mr. Berry states that the applicant has been in business doing construction projects much larger in size for the past 25 years; there is a 5 acre site within 10 miles from Northwood currently under construction. He asks the board to consider a small percentage of the total or not have the requirement at all. Mr. Lopez states that he is not going anywhere.

Mr. Strobel states that a neighboring town had a project under construction that did not get completed and has caused erosion problems. Mr. Lopez states that most house lots are larger than this site. Ms. Morrill states that she thought it was the town that would look into the cost for the escrow. Ms. Planchet states that the amount is up to the applicant to provide. She adds that Ms. Smith mentioned the estimate to make sure that it is for erosion from the point of view of other properties.

Mr. McCaffrey asks how an escrow account is controlled. Mr. Strobel explains that an escrow account is recourse for the town to get erosion control on site. Mr. McCaffrey states that he does not believe that this site is in any danger of erosion issues. Mr. Wolf notes that there are bigger problems in town that are not being addressed. Ms. Morrill states that to prevent problems from occurring in the future, they should take care of it now. She states that it is steep in some areas of the lot.

Mr. Lopez states that the lot could be cleared without any permits from the town. He states that he has never heard of this being done before. Mr. Wolf states that this is an undue request. Mr. Lopez states that it is prudent to act on probability not possibility. Mr. Bryer states that he does not feel that this is an issue. Mr. Strobel polls the board and the consensus is that it is not necessary for an escrow account to be established for erosion control.

Mr. Strobel mentions the fire lane. He states that documentation has been received from the fire department indicating that the fire lane is acceptable, as proposed. Ms. Planchet states that the fire department will do a complete review of the building for applicable fire codes.

A discussion is held regarding the applicable permits required. Mr. Strobel states that the applicant will need to obtain all local, state, and federal permits including but not limited to: town building and sign permits; NHDOT Driveway Permit, NHDES Sewage Disposal Permit, copy of EPA receipt of Notice of Intent (NOI) provided to town. Mr. Strobel states that the code enforcement officer should have access to the stormwater maintenance records within 48 hours of request. Discussion ensues as to the enforcement of conditions and the responsibility of the planning board. Mr. Bryer states that the code enforcement officer will make sure that all points on the plan are met. Mr. Berry states that there are 35 notes on the plan that must be completed before a certificate of occupancy can be issued. He adds that if it is winter and the vegetation noted cannot be planted, a bond will need to be provided. Mr. Lopez states that he is required to provide the certificate of occupancy permit to Family Dollar 30 days prior to taking occupancy of the store.

Mr. Strobel makes a motion, second by Mr. Jandebeur, to approve the Family Dollar site plan, Case: 09-14, with the following conditions:

1. A copy of the signed easement agreement for abutting property be provided to the town; and,
2. Note added to site plan: Code Enforcement Officer, or his designee, to be present at Pre-construction meeting; and to monitor construction/installation of the stormwater treatment system; and,
3. Note added to site plan: The Code Enforcement Officer to have access to the stormwater maintenance records within 48 hours of request; and,
4. Map and Lot numbers for abutting property with access easement be added to the plan; and,
5. Applicant to obtain all local, state, and federal permits including but not limited to: town building and sign permits; NHDOT Driveway Permit, NH DES Sewage Disposal Permit, copy of EPA receipt of Notice of Intent (NOI) provided to town; and,
6. Site plan to be amended: Detail C-13 to be changed to be the same as detail C-28 on page C-104; and,
7. Information on approved waiver requests for parking and drainage requirements be added to the site plan; and,
8. Completion of construction to occur within 12 months after all conditions of site plan are met and plan is signed by planning board chairman.

Motion passes unanimously; 7/0.

Mr. Strobel calls for a recess at 8:10 p.m. Session resumes at 8:17 p.m. Ms. Parmele left the meeting. Mr. Johnson returns to the board as a voting member.

VOTING DESIGNATION: Bob Strobel, Tim Jandebeur, Herb Johnson, Rick Wolf, Babette Morrill, Joe McCaffrey, and Scott Bryer.

TECHNICAL REVIEW OF NEW CASES:

Case 11-06: Chris and Amy Sporcic, 983 First NH Tpke. Map 217; Lot 10. Applicants seek minimal impact site plan approval for change of use for retail business. (Property currently owned by Stewart and Gloria Smith.)

Ms. Planchet states that she received an email from the applicant with the intent to withdraw the application. She states that she has also requested the withdrawal request to be provided in writing but it has not been received to date.

A discussion is held regarding fees. Mr. Bryer stated that some costs were incurred. Ms. Planchet states that the check has been processed for the full amount as the public notice had been published and some costs have been incurred.

Case 11-07: Stephen Rowland Revocable Trust, 783 First NH Tpke. Map 222; Lot 47. Applicant seeks to subdivide 2.381 acres from existing 10.671 acre lot.

Ms. Planchet explains that this is a Technical Review Committee (TRC) work session, not a public hearing. She states that according to the Rules of Procedure, board members take this opportunity to review the new applications but that abutters have not been notified and this is not a public hearing. The rules allow applicants to provide input only for purposes of clarification.

Mr. Jandebeur asks what the board's responsibility is for this type of application. Mr. Strobel explains the board is to review the plans and the application. Ms. Planchet provides an overview of the subdivision application process. She adds that the requirements for subdivisions are in the subdivision regulations.

Ms. Planchet provides members with the TRC review notes which include comments from staff. She states that comments are also included from Pat Bell who she had asked to review as he is a surveyor.

The board members review the TRC notes without comment. Ms. Planchet asks if the board wishes her to provide the notes to the applicant. The consensus of the board is to send them.

Mr. McCaffrey asks about the contour lines. Ms. Planchet explains that the requirements to show contours are in the subdivision regulations. Mr. McCaffrey states that one would not show contours within the wetlands.

Case 11-08: Garry and Sandra Barnes, 398 Jenness Pond Road. Map 102; Lot 29. Applicants seek to subdivide 36.79 acres into three lots; 2.05 acs.; 12.01 acs.; 22.72 acs.

Mr. Barnes and Nikolas Bassett are present.

Ms. Planchet provides the review notes which include her notes as well as other staff comments.

Mr. Strobel asks why the contour lines are not shown for the rear of the property. Mr. Barnes explains that the remainder of the lot is relatively flat.

Ms. Planchet states that the surveyor's notes indicate that there are agricultural soils overlay district, and wetlands on the property. She adds that the wetlands are required to be delineated by a certified wetland scientist. She states that there is no stamp on the plan and that since this requirement is in the development ordinances it would

require a ZBA approval if it is not done.

Ms. Morrill asks why the contours are not shown. Ms. Planchet states she is not sure, but explains that the state does not have septic system requirements for lots more than 5 acres so that could be why the contours were not there.

Mr. Barnes states that the lot is 36 acres and the new house would be proposed as a single family dwelling. He states that the 2 acre parcel is around the existing dwelling; the second lot proposed to be 12 acres will be sold to his daughter and son-in-law; the third lot is just farm land and trees.

Overlay district maps are reviewed by the board and are explained by Ms. Planchet.

A discussion is held regarding the location of the wetland area before the proposed driveway. Mr. Barnes states that judging by the plan set the wetland ends prior to the driveway.

Board members review the Staff TRC notes without comment. Ms. Planchet states she will provide the notes to the applicant.

Case 11-09: Frederick Vega, 1505 First NH Tpke. Map 108; Lot 3. Applicant seeks site plan approval for dental practice and wellness center, and rental apartment.

Dr. Rick Vega and Eric Reid, contractor, are present.

Ms. Planchet provides staff review notes to the board.

Ms. Planchet states that she has spoken with the applicant's representative Jacki and explains that they reviewed the minimal impact list together. She states that there are actually two proposed changes and she believes it is more appropriate to have the minor site plan application submitted and then submit waiver requests rather than use the minimal impact application. Ms. Planchet states that a surveyed plan has been submitted from 2002 when the change of use went from a restaurant with the apartment to the antique shop. She explains that the apartment was removed when the antique shop was approved. She states that the applicant is requesting a spa, dental facility, wellness center, and rental space.

Ms. Planchet states that Jacki had informed her that Dr. Vega will not be present at the meeting in two weeks; however, the applicant's representative, Jacki, will be here.

Mr. Johnson asks why this is not a minimal application. Mr. Bryer explains that the rental use was removed on the last approval.

Mr. Wolf states that he has never met Dr. Vega; however, his son rents from Dr. Vega. Discussion is held regarding conflict of interest and Mr. Wolf states that he has nothing to gain and remains on the board as a voting member.

Ms. Planchet states that there are no changes to the exterior use proposed. She states that the planning board issues are with the use of the apartment and the dental/wellness center. Ms. Planchet adds that there is an approved site plan prepared by a licensed land surveyor in the property folder; however, it was prepared for another purpose. The approved plan from 2002 is reviewed by the board.

Mr. McCaffrey asks how large the apartment is and Mr. Vega replies 1500-1800 sq. ft., 3 bedrooms.

Ms. Planchet asks if Dr. Vega is familiar with the zoning board application and the condition to combine the existing tracts of land; this condition has not been met. She explains that in May of 2004, the ZBA granted a variance with conditions and the conditions have not been met and currently the lot is 5 tracts. Dr. Vega states that his intention is to keep the configuration of 5 lots, as is. He states that the area may be used for the employee parking.

Mr. Strobel asks about the employees and the parking spaces planned. Mr. Reid explains that he has drawn the parking spaces up to the easement. Dr. Vega states that there may be up to 12 employees in the future.

Mr. Bryer left at 9:20 p.m.

Ms. Planchet provides her notes to the applicant and contractor. She states that there is a need for more information to be provided and added to the plan.

Mr. Reid states that he will add a scale; it is very close to scale. Ms. Planchet states that as far as the parking, the requirements are to provide sufficient parking for the dental/wellness center and the apartment.

Mr. Strobel notes that there are many waivers being requested. He requests that the members review the information to

make sure that the waivers are applicable.

OTHER:

Revised Subdivision Application Form:

Ms. Planchet states that there were two different options provided to the board at the last meeting that led to discussions, particular regarding site walks for review. She states that she provided the board with a sheet which includes 4 options for language on the form. She states that board members cannot talk about the application unless in the meeting room at a meeting and are not supposed to talk to the applicant. She states that she believes that after discussions and LGC explanations on site walks, option 4 is appropriate, no wording on visiting the property as she does not believe it is necessary.

Mr. Jandebour makes a motion, second by Mr. McCaffrey, to support the planner's recommendation and strike the bold, italics verbiage on page two on the drafted 2011 application. Discussion is held regarding the scenarios if someone cannot attend the site walk, and wish to respect the owner's privacy, yet still provide due diligence. Mr. Strobel states that if a site walk is scheduled and there is no quorum, then the items would be addressed at public hearing. Ms. Morrill refers to the RSA's regarding site walks. Ms. Planchet states that the rules of the planning board allow the board to conduct site walks which are scheduled at the public hearings.

Further discussion is held regarding the fees on the drafts provided. Ms. Planchet states that the board of selectmen adopts fees and all fees were previously approved. She states that fees are not collected if a service is not performed. Mr. Wolf states that there is no one qualified to complete any pin inspections. Ms. Planchet states that these fees are approved by the selectmen and suggests that if the members wish to discuss the fees, they should add it to the agenda of another planning board meeting, and then they could decide to make recommendations to change the fees to the board of selectmen. She states that the motion on the floor is to approve the application as amended. Motion passes; 4/2. Mr. Wolf and Mr. Johnson are opposed.

Application Checklists

Revised checklists are presented to the board for review, for subdivision applications.

ADJOURNMENT

Mr. Johnson makes a motion, second by Mr. Wolf, to adjourn at 9:57 p.m. Motion passes unanimously; 6/0.

Respectfully submitted
Lisa Fellows-Weaver
Board Secretary