



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD MEETING

Thursday, May 16, 2019 – 7:00 p.m. – Town Hall Conference Room

Members Present: Frank Catapano, Stu Gerome, Steve Gerrato, Bob Dion (Alternate), Steve Smith (Selectmen's Rep)

Members Absent: John McDevitt, David Moore, Rich Winsor, Catie Medeiros (Alternate), Vaughan Morgan (Alternate)

Staff Present: Mark Fougere - Consultant

Acting Chair Gerome opened the Planning Board public hearing at 7:00 p.m. A roll call was taken by the Acting Chair; he announced a quorum was present and the meeting was being recorded.

1. Projects of Regional Impact

There were no projects of regional impact.

2. Subdivision of Land: 38-40 Bramber Valley Drive [Map U6, 10 – Residential Zone]

Owner/Applicant: Scott O'Neil

Proposed minor subdivision of an existing two family residence into a two unit condominium

Lynn Zebrowski, Jones and Beach Engineers, addressed the Board. Also present were Attorney John Bosen, Michael Green (Green and Company), Jenna Green (Green and Company), and John O'Neill (Green and Company).

A condo site plan was prepared by Jones and Beach Engineers for the conversion of an existing duplex located at 38-40 Bramber Valley Drive. The property line will be down the center of the duplex. Open space consists of mainly the shared driveway. The lots will be owned by each side of the condo association; the limited common area will be the driveway. State subdivision approval has been received. Each side will have its own septic; septic approval has been received. Each side will also have its own water and utility connections; the water shutoff is located on the road.

M. Fougere stated that the application is complete. Bramber Valley Drive is not a Town road; that issue makes the plan "a little gray". The deed for this portion of the road was supposed to be turned over to the Town. If the Board approves the condo conversion, there will need to be a stipulation that the issue be addressed prior to any recording. Notes need to be cleaned up on the minimum lot area, there is a missing bound on the rear of the property, a copy of the State subdivision approval is needed, and before the plan can go on file the Selectmen need to accept Bramber Valley Road. That was a Condition of Approval from the Planning Board when the age restricted housing development was established.

DRAFT – SUBJECT TO CHANGE

F. Catapano clarified that the line separating the units was the limited common area and not two separate lots. B. Dion questioned if Subsection 3.3.2 was the correct section to approve, but rather Section 2.4 – Minor Subdivision Approval. F. Catapano explained that the land was not being subdivided and it would remain one lot with a limited common area (shared driveway). S. Gerrato questioned if the square footage of the wetlands had been calculated. L. Zebrowski stated they were confined to the rear of the lot.

MOTION: F. Catapano moved to accept the application for the Subdivision of Land: 38-40 Bramber Valley Drive [Map U6, 10 – Residential Zone] as complete. Second – S. Gerrato; all in favor. MOTION CARRIED

Acting Chair Gerome commented that he would like to see the floor plans recorded that coincide with the bedroom and septic designs.

The meeting was opened to public comments. Attorney Bosen, representing the applicant, stated they had a quandary. The building is ready for occupancy and a closing is scheduled within the next 30 days. They were concerned with the timing and would be providing the deed to dedicate the road. Attorney Bosen continued that there is a recorded plan. Under New Hampshire law, a recorded plan conveys the lots in accordance with the plan and dedicates those streets for public use. The Board of Selectmen will need to accept the road. A bond is in place and the Homeowners Association is maintaining the road. Attorney Bosen requested that the plan be recorded now so the sale could go forward within the next 30 days.

Acting Chair Gerome responded that the Board was aware that the Association was trying to no longer maintain the road; that was a serious quandary for the Board. Although Attorney Bosen understood, he was concerned about the timing of the closing and the acceptance of the road by the Selectmen after review by the Town Attorney. He thought the Town would still be covered with the bond that's in place. Acting Chair Gerome was unsure how it could be approved without those stipulations. He added that the road maintenance was a glaring issue for the Board. M. Green agreed, adding it was a decision that would have to be made in the future; right now it was being maintained. The bond will be released and road turned over long before the decision is made on the road maintenance. According to the current documents, the Association is maintaining the road for the foreseeable future.

Attorney Bosen stated that has been a lot of record since 1993, with frontage on Langton Lane (previous name for Bramber Valley Drive). The building was built in accordance with the building permit and everything has been done according to the plans. M. Green added it was similar to any other subdivision: the road gets put in, houses get built, occupants are moved in, the top coat is put down, the punch list is done and then the road is accepted. Home buyers have closings and occupancy permits have been issued. Attorney Bosen noted that Paul Sanderson, former Selectman, has written articles on dedications and gaps and that it's a two-step process. There is nothing inappropriate about conveying property during the gap period as long as bonding is in place.

M. Green stated there is a public road bond in place. There is nothing left to do on the roads; striping on two crosswalks needs to be done; the dome tip and the handicap cover have been done. Acting Chair Gerome asked S. Smith how quickly the Selectmen could look it; he responded they could look at it at the next meeting. M. Fougere added in order for the Board of Selectmen to accept the road, a letter from the Planning Board Engineer would be needed indicating that portion of the road was okay. There were limited issues on the road but other issues on the interior of the development. J. O'Neill added that the jersey barriers have been removed and the Vernita Connection has been open for four to five months.

DRAFT – SUBJECT TO CHANGE

Acting Chair Gerome stated he would be willing to do a conditional approval contingent upon the Town Attorney's comments regarding the deed. F. Catapano was in agreement and felt they shouldn't come back for any more bond reductions. It will have to be fixed before the next unit is sold.

M. Fougere stated that what made this situation unique was that the private way was there before the project started; it wasn't a typical project. M. Green added that initially it wasn't; the Planning Board approved the entire subdivision, turning the front portion into a public way.

Note 2 on the plan indicates the lot area minimum is 60,000 sq. ft.; the Zoning Ordinance is 90,000 sq. ft. Reviewing the conditions of approval, it was noted that if the Town Attorney approves, it can be recorded after 30 days. M. Fougere stated the waiting period was 30 days, regardless. If the Town Attorney is uncomfortable and wants the deed first, item five will stay. It will have to go to the Selectmen and go through that process. Responding to a question from S. Gerrato, it was clarified that the duplex was recently built. S. Gerrato noted the lot size should have been 90,000 sq. ft.; J. O'Neill stated it was a lot of record. If the Town Attorney approves, it will allow the Building Inspector to move forward.

MOTION: F. Catapano moved to grant the waiver for 38-40 Bramber Valley Drive from Subdivision Regulations Section 3 - Data Required for Submission of a Subdivision, Subsection 3.3 – Required Exhibits, to the plan presented by Jones and Beach Engineers, Inc., dated April 22, 2019, Project No. 14159.1. Second – S. Gerrato; all in favor. MOTION CARRIED

Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations: Adequate information was provided showing the Planning Board the existing conditions, topography, wetlands, setbacks and existing features. A waiver has been requested from certain requirements in the Subdivision Regulations such as drainage design, construction cost estimates, traffic analysis, etc. since the applicant doesn't believe those items are necessary for a condominium conversion.

MOTION: F. Catapano moved to approve the condominium by 44 Bramber Valley, LLC, for 38-40 Bramber Valley Drive as submitted by Jones & Beach Engineers, Inc., dated April 05, 2019, Project No. 14159.1, with the following conditions. Second – S. Gerrato; all in favor. MOTION CARRIED

- 1) The applicant shall submit a digital file with three hard copies of the plan and recording mylar;
- 2) Set all missing lot bounds prior to recording;
- 3) NHDES subdivision approval;
- 4) Change Note 2 on the plan: minimum lot area is 90,000 sq. ft. for a duplex;
- 5) The Planning Board Consultant will seek legal opinion from Peter Loughlin, Town Attorney, relative to the status of Bramber Valley Road. Can an occupancy permit be issued and the plan recorded prior to road acceptance or does it have to go to the Board of Selectmen?
- 6) Waiver must be noted on the plan.

3. CIP Update

M. Fougere will be doing a presentation about the CIP process at the work session on Thursday, June 06, 2019. Included will be the Planning Board, Board of Selectmen, and one or two School Board and Budget Committee members. The SAU 50 Business Administrator has sent a copy of Rye's CIP that the Board may be interested in.

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4. Zoning Updates

M. Fougere suggested that zoning be discussed at the work session. If the Board wants to do anything robust, it should be started soon. M. Fougere stated that work force housing needed to be addressed as well as items from Chair Winsor.

5. Approval of Minutes

MOTION: F. Catapano moved to approve the minutes of Thursday, May 02, 2019. Second – S. Gerrato; all in favor. MOTION CARRIED

6. Approval of Invoices

There were no invoices to approve.

7. Other Business

Paul Johnson, 162 Union Road, approached the Board about a putting a garden shed on his property; the location of the shed will be within 50' of a wetland. After discussion with members who were familiar with the property, it was determined that the wetland in question was a man-made pond. Zoning Ordinance Article 18 – Wetlands Protection Ordinance, Section 18.2 – Jurisdictional Wetland Areas, Subsection 18.2.3, states that man-made ponds shall not be considered part of the Jurisdictional Wetland Area. F. Catapano stated it was a farmer's pond; there is no buffer for man-made ponds.

The Master Plan Survey is at the printer (NH State Prison); the cost is approximately \$350 for 2,000 surveys that will be copied, folded, put in an envelope with printed addresses, divided by route and delivered to the Town Offices. Letters will be sent out by bulk rate. The link to Survey Monkey will be on the Town website and Facebook page; it will be activated when the letters are sent. Drop areas for completed surveys have been confirmed (School, Library and Town Hall).

8. Topics for Work Session: Thursday, June 06, 2019

The Board received a copy of the work session topics in their informational packet.

9. Adjournment

MOTION: S. Gerrato moved to adjourn at 7:39 p.m. Second – F. Catapano; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, June 06, 2019 – 7 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Administrative Assistant

Approved: 