



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD MEETING

Thursday, December 19, 2019 – 7:00 p.m. – Town Hall Conference Room

Members Present: Frank Catapano, Stu Gerome, Steve Gerrato, John McDevitt, David Moore, Rich Winsor, Catie Medeiros (Alternate), Steve Smith (Selectmen’s Rep)

Members Absent: Vaughan Morgan (Alternate), Bob Dion (Alternate)

Staff Present: Mark Fougere - Consultant

Chair Winsor opened the Planning Board public hearing at 7:00 p.m. A roll call was taken by the 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: 1 Stearns Way (Map R9, 8K)

Owner: Michael E. Gill & David M. Gill Revocable Living Trust

Applicant: Paul J. Connolly, Civilworks New England

The owner and applicant are proposing to subdivide a 74.24 acre lot into two lots, 39.12 acres and 35.12 acres, with frontage on Moulton Avenue.

S. Gerrato recused himself from the discussion.

Michael Gill, property owner, addressed the Board. Paul Connolly, Civilworks New England, joined the meeting by phone. Revised plans were submitted including topography for Lot 8K showing it was a buildable lot. P. Connolly reviewed his email indicating the actions that were taken to address Board concerns (copy on file).

As requested by the Planning Board at their meeting on Thursday, November 21, 2019, Eric Weinrieb, Altus Engineering, reviewed the project; the Board received that review (copy on file). Referring to Item 2 of that review, P. Connolly stated conforming to Section 4.4.1 of the Subdivision Regulations was almost an impossible task unless you had land that was located in Kansas or Nebraska; it would be a hard task to do anywhere in New England. Their lot lines were a little bit unconventional. However, they are consistent with zoning. P. Connolly was unaware of Gail Gerrato’s concerns mentioned in Item 4; he did not receive a copy of the letter sent to E. Weinrieb.

S. Smith had concerns regarding the area around the outside of Lot 8K: will it be maintained as a right-of-way strip or open space. M. Gill responded that the area will remain a wooded wildlife habitat. F. Catapano found the plan to be confusing; the design did not make sense and was very unconventional. Chair Winsor agreed, adding they were committed to preserving land. M. Gill’s intention was to always

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have two building lots. Chair Winsor understood the preservation but struggled with the unconventional perimeter strip. Does that set an unconventional precedent for the future?

Responding to a question from C. Medeiros, M. Gill stated the Ordinance does not allow land on a Class VI road to be subdivided. They are subdividing a piece of land that has a Class VI road as its original access for a building site. He continued that it was not subdividing on a Class VI road; another lot is not being created off Stearns Way. They are subdividing the parcel back to Moulton Avenue (the original purchase that was merged). Their intention was for M. Gill and his brother to each have a lot and retain the remainder of the land to be put into conservation. M. Gill explained the frontage. There will not be a house on Lot 8K. Land is currently not in conservation.

J. McDevitt, referring to Subdivision Regulations Section 4.4.1 – Lot Configuration, stated the definition of “maximum effort” would be up to each individual. What was considered “maximum effort” and has he met that criteria? If someone thinks he has, Section 4.4.1 is fine.

S. Gerome commented that it was unconventional but he was fine with it. C. Medeiros stated if most of it was going into conservation, it was fine. The Board noted that currently nothing was going into conservation. J. McDevitt stated, in the future, if the land was not put into conservation it could be subdivided and developed.

Chair Winsor opened the hearing to public comments. Stephen Gerrato, 512 Post Road: Reviewed M. Gill’s site plan with the Planning Board. He asked that a line be removed and the area left open. Chair Winsor stated that any legal issues from the past would not be discussed. M. Gill pointed out the turnaround on the plan. Chair Winsor requested M. Gill record the correct plans and include the turnaround in the correct location. P. Connolly stated the roadway and profile plan for Stearns Way has not been recorded; they were considered construction plans. The recorded plan is referred to in Reference Note 18 on Sheet 3/3 of the revised plan set (D-37349).

*Note: There were multiple conversations taking place during this portion of public comments.

Board members were concerned that the hammerhead shown on the plan was not wide enough for a vehicle to turn around. P. Connolly stated the Stearns Way travel way and hammerhead could be shown on the plan as it runs down through the end but it would be very small at 100 scale. S. Gerome stated that the hammerhead and turnaround at the end of the driveway should be added to Sheet 3/3. That would meet the requirements according to the site plan. M. Fougere added that the issue is it’s an old road, the right-of-way is small and the existing turnaround is in the right-of-way. A standard turnaround is going to go outside of the right-of-way; either an easement will need to be granted if it’s a public turnaround or more right-of way is dedicated. A public turnaround should be on a public easement. Chair Winsor stated he wanted the turnaround to be large enough for emergency vehicles. Standard hammerhead specs will be added to the Planning Board’s “to do” list. Chair Winsor preferred a public safety turnaround; P. Connolly stated it would be added to the plan.

There were multiple discussions about a stonewall the Gerrato’s wanted to remain open. S. Gerome stated “to remain open” needed to be added to Plan 3/3. Chair Winsor disagreed; the Board was setting an existing condition on a piece of land that was not in question. S. Gerome stated the Board would be clarifying it was to remain open. F. Catapano and Chair Winsor agreed he did not have the right to block it. M. Gill added that wall could not be removed; it was a boundary wall. Chair Winsor stated if they wanted to remove the wall they would need to come back to the Planning Board; it was a separate topic. F. Catapano added that unless it was designated a scenic road, anyone abutting a Class V or VI

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road has rights to open a boundary wall. Chair Winsor stated it was outside the purview of the Board at this meeting. They could submit a plan and come back to the Board.

S. Gerrato discussed boundary lines. F. Catapano stated it was a legal issue and a surveyor should be hired to survey the land. For the record, S. Gerrato stated they believed the house and barn went as one and Gill did not own the portion pointed out by S. Gerrato. Chair Winsor encouraged him to pursue that as he saw necessary.

At the November public hearing, the Board asked P. Connolly to research the property lines for Egizia Brown, 508 Post Road. P. Connolly assured her it had been done. G. Gerrato was concerned because the Gerrato driveway was not shown on the plan. Chair Winsor noted the critical point was that recorded lot lines do not change. The recorded lines that were being used would be the recorded lot lines.

Chair Winsor closed the public hearing and returned to the Board for discussion. M. Fougere questioned if an easement needed to be added: utility access to Lot 8K may be across another piece of property. A utility easement should be shown on the plan. M. Gill stated utility lines would be through Sleepy Hollow; transformers are in place today. P. Connolly stated an easement could be shown over D. Gill's property to where the utility lines are located. It is an existing condition and will be identified as an easement.

J. McDevitt, referring to Subdivision Regulations Section 4.4.1, stated that if approved, there needed to be a statement included on the plan set: due to its unique nature, it has been deemed to meet the conditions of Subdivision Regulations Section 4.4.1.

MOTION: S. Gerome moved to approve the waiver from Article III – Data Required for Submission of a Subdivision, Section 3.3 – Required Exhibits, Subsection 3.3.1 – Existing Conditions Plan, Item B, requiring wetlands mapping. Second – F. Catapano; all in favor. MOTION CARRIED

MOTION: S. Gerome moved to approve the waiver from Article III – Data Required for Submission of a Subdivision, Section 3.3 – Required Exhibits, Subsection 3.3.1 – Existing Conditions Plan, Item C, requiring complete mapping of existing contours. Second – F. Catapano; all in favor. MOTION CARRIED

MOTION: S. Gerome moved to approve the waiver from Article IV – General Principle and Design and Construction Standards for Subdivisions, Section 4.3 – Determination of Soil Type, Item B, requiring HISS mapping. Second – J. McDevitt; all in favor. MOTION CARRIED

MOTION: J. McDevitt moved to approve the subdivision of land at 1 Stearns Way (Map R9, 8K), as submitted on the plan set from Civilworks New England, dated 07.01.2017, Project #1647, with the following conditions: Wetland Scientist stamp and all other required signatures shall be added to the plan; add a utilities easement for all utilities coming off Sleepy Hollow Drive; a detailed turnaround at the end of Stearns Way on private property; note added to the plan that due to its unique nature, it has been deemed to meet the conditions of Subdivision Regulations Section 4.4.1; lot corner pins for the new lot shall be set prior to plan recording; all waivers shall be noted on the plan; a note shall be added to the plan that no site disturbance shall occur until a silt fence has been installed along any wetland buffer areas on the subject site and the fence shall be inspected prior to any site disturbance; the applicant shall submit a digital file, one hard copy of the plan and recording mylar. Second – S. Gerome; all in favor. MOTION CARRIED

S. Gerrato rejoined the Board.

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3. Subdivision of Land: 11-13 March Farm Way (R21, 55)

Owner/Applicant: Richard Landry, Thurken IV, LLC

The owner/applicant is proposing to amend the existing boundaries of the two condominium land units and common area. Land Unit 1 will be 2.554 acres and Land Unit 2 will be 24.66 acres; the common area will be 1.12 +/- acres.

Brenda Kolbow, TF Moran and representing the owner/applicant, addressed the Board. The project proposed to amend the existing boundaries on March Farm Way (Aroma Joe's and the retail area, and the vacant land at the rear of the property).

A condo site plan was approved in June of 2018. B. Kolbow explained the proposed amendment. Only the septic area will be in the common area; wetlands will be part of Land Unit B. The shape of Land Unit A will not be changing. The potential buyer has requested the amendment. The proposed use of Land Unit B is the same: a proposed retail building. The interior lines only have changed. Wetlands were last delineated in January 2018. The site was revisited when it was not frozen; the line moved slightly. There is an amended easement plan as part of the plan set. Boundary lines were updated and labels changed.

Three waivers are being requested. Land Unit A is developed and has been through the Site Plan Review process; construction on Land Unit B is not proposed at this time. March Farm Way will be the access point for Land Unit B and is already constructed. Utilities for Land Unit B are already installed.

B. Kolbow was unaware of any changes to the original notes when the property was subdivided. She noted the easements on the property. F. Catapano felt they were obtaining more uplands for density by amending the plan. B. Kolbow noted the property would be more valuable with the added square footage.

MOTION: F. Catapano moved to accept the application for the subdivision of land at 11-13 March Farm Way, amending the existing boundaries, as complete. Second – D. Moore; all in favor. MOTION CARRIED

The stub of the road and the rear parking lot are in place. Some members felt the review by Altus Engineering would be more appropriate when a building plan was submitted. Chair Winsor: Land Unit B changes and will absorb much of the common area. Land Unit B today vs. encompassing the common area: what are the impacts to contiguous uplands in those calculations vs. pre-existing to future (as is vs. to be). B. Kolbow responded the buffer has slightly changed allowing for a little more buildable area. Calculations on individual lots have not been done. B. Kolbow stated that the proposed amendment is at the request of the potential buyer who will be gaining upland. Both land units are under single ownership.

A review by Altus Engineering was discussed. The majority of the Board agreed Altus Engineering should review the proposed changes. M. Fougere asked B. Kolbow to submit a plan that was easier to read.

MOTION: F. Catapano moved to continue the subdivision of land, 11-13 March Farm Way, to the public hearing on Thursday, January 16, 2020. Second – J. McDevitt; all in favor. MOTION CARRIED

4. Approval of Minutes

MOTION: S. Gerome moved to approve the minutes of Thursday December 05, 2019. Second – S. Gerrato; six in favor, two abstain (C. Medeiros, D. Moore). MOTION CARRIED

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5. Approval of Invoices

MOTION: D. Moore moved to approve payment of the invoice to Fougere Planning & Development for the Master Plan in the amount of \$6,595.86 from the Town Budget. Second – F. Catapano; all in favor. MOTION CARRIED

6. Other Business

M. Fougere updated the Board that the Building Inspector withdrew his zoning requests regarding lot size and definition of a structure. The Building Inspector will change the language in the Building Regulations to match the Zoning Ordinance. S. Gerrato requested “structure and apparatus” or “mechanical apparatus” be added to the definition of “structure” for clarity. It will be added to the list for 2020. M. Fougere noted that the lot configuration language in the Subdivision Regulations is very poor; it should be clearer than stating “following the contours”.

J. McDevitt asked if the Selectmen acted on the CIP. It has been reviewed by the Selectmen; no action was taken. S. Smith will review with the Selectmen.

M. Fougere noted comments were received from the Conservation Commission on the Residential-Commercial-Industrial Overlay District. M. Fougere commented that including “has to meet all applicable State, local and federal standards” was not necessary; they have to be met. Chair Winsor, while respecting proposed changes from the Conservation Commission, felt it would be restating what the Planning Board was not changing. The Board does not have the authority to waive MS-4 or State and federal regulations. F. Catapano thought the Conservation Commission wanted it noted from the beginning so the applicant was aware. M. Fougere noted that they deleted the section making it clear that the Planning Board is not waiving the wetland buffers; that section should not be deleted. F. Catapano felt the Conservation Commission was trying to make a statement that the Town was very concerned about the brooks. Chair Winsor stated zoning the Planning Board was putting in place did not change anything; the onus was on the developer. S. Gerome stated the Conservation Commission was including a different set of State regulations when using “impaired” and removes the latitude of the Board. Chair Winsor added that if an impaired waterway was declared no longer impaired, zoning would have to be amended to reflect that.

M. Fougere noted that because the RCIM District would change the allowable uses for less than 100 lots, under the State statute notices were mailed to the individual property owners.

7. Topics for Work Session: Thursday, January 02, 2020

This work session will be a public hearing on Zoning Ordinances amendments.

8. Adjournment

MOTION: J. McDevitt moved to adjourn at 8:42 p.m. Second – D. Moore; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, January 02, 2020 – 7 p.m., Public Hearing, Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant