

TOWN OF JAFFREY
Jaffrey, New Hampshire
PLANNING BOARD
Meeting Minutes
January 12, 2010

Present: Chairman Merrell, Members Deschenes, Doane, Foley, Grodin, Kresge, McCarthy, Moore and

Absent: Selectmen's Representative MacIsaac

Staff: Recording Secretary Lemire, Jo Anne Carr, Director of Planning and Economic Development

MEETING MINUTES APPROVAL

On a motion by Grodin, seconded by Doane, the December 8, 2009 minutes were approved as amended. (5-0)

Amendments were as follows:

Page 1, Public Hearing – New:

To consider the following changes ~~to the Jaffrey zoning Ordinance~~

Page 1, Decisions:

To consider the following changes ~~to the Jaffrey zoning Ordinance~~

PRELIMINARY HEARING

Craig Buth – 63 Turner road

Mrs. Buth and Mr. Donald Arsenault were before the board on behalf of Mr. Craig Buth. Mr. Buth is interested in purchasing and building a single family home at 63 Turner Rd. which is on a class VI road. The board explained that because it is a class VI road Mr. Buth would have to go before the Selectmen to ask for permission to obtain a building permit. Subsequent to that meeting the Selectmen would ask the Planning Board for their recommendation based on the findings of their Class VI road study. The Selectmen would then make their decision.

Understanding that a liability waiver is required Mrs. Buth turned in a completed form to the board. Chairman Merrell asked Mrs. Buth to identify where in relationship to the “dip” on Turner Road the property is because the dip in the road is a major problem.

Mr. Arsenault asked if the process was necessary if he didn't plan to build a house right away. The board cautioned him that the Selectmen could deny the request for a building permit therefore purchasing the property prior to having an approval could be risky.

CALL TO ORDER

Chairman Merrell called the public hearing to order at 7:30 p.m. The rules of procedure were read aloud. Notice of hearing PB 10-02 and PB 10-03 were posted in the Town Office building, the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen.

APPLICATION ACCEPTANCE

PUBLIC HEARING – NEW

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1. PB 10-02; MIKEN Realty Trust, 295 Ingalls Rd., Map 223/ Lots 1 & 12, Zone: Rural (without town water)

Conditional Use Permit – The applicant proposes a conventional subdivision of up to 14 lots.

Presentation: Jeff Kevan, TF Moran

Appearance: Mike Shea

Member Moore would vote.

Prior to the presentation Chairman Merrell explained that the zoning ordinance requires a parcel of land greater than 20 acres to be developed as an open space plan. The applicant is applying for a Conditional Use Permit, which if granted, will allow him to develop his property consisting of 115 acres as a conventional subdivision. In the application for a CUP there are 9 conditions and all must be met by the applicant in order for the board to grant the application.

At this point in the public hearing process if a site plan or subdivision application were before the board they would vote on whether or not the application is complete and if they should accept the application. Although the CUP is new and the first for the board Chairman Merrell does not feel that this type of application requires a vote to determine if it is complete. There were no objections from the board.

Mr. Shea began his presentation by stating that there are two lots totaling 115 acres. The lots are approximately 45 acres and 70 acres with around 5,000 feet of road frontage. Single family homes are an allowed use and are consistent with previous development along Ingalls Road. No new roads will be created. There is an existing farm house on the 70 acre lot and at this time the plan is to create one lot of about 25 acres to preserve the existing home, barn and pasture. Mr. Shea is not trying to maximize the yield of the houses and he does not feel that this is the area for an OSDP. The lot sizes have been configured carefully so they cannot be further subdivided by virtue of road frontage requirements and/or covenants that are planned for the deeds. They also plan to retain rights to home design and placement on lots.

Mr. Shea pointed out that he had submitted a narrative for the CUP. Chairman Merrell asked Mr. Shea to read the document aloud for the benefit of the audience. In summary the narrative stated the following: 1) the proposed subdivision is consistent with the current development in the area; 2) the proposed subdivision will not adversely affect the public or private rights of others and is consistent with other allowed uses in the rural zone; 3) many of the proposed lots will have more than the required 200 feet of road frontage, all lots are greater than the required 3 acres and the plan preserves the existing house and pasture area containing more than 20 acres with restrictive deed covenants; 4) preserving the existing house and pasture area with restrictive deed covenants will provide a historic and scenic neighborhood presence while preserving open space; 5) by creating single-family housing lots that meet or exceed all zoning requirements, the surrounding property values will not be diminished; 6) the proposed use will not result in extraordinary fiscal impact to the town because no new roads are being created and water and sewer will be private; 7) an OSDP is not reasonably feasible due to the unique characteristics of the site; the creation of 12 new lots (plus the existing 2 lots) will not threaten Jaffrey's standing as a small town nor its friendly atmosphere and allows for the preservation of open space; 8) the proposed plan is consistent with the Master Plan. The creation

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of 12 new lots will not threaten Jaffrey's standing as a small town and allows for the preservation of open space; 9) the applicant does not claim to be under economic hardship at this time.

The question at hand is what makes more sense – an OSDP or the proposed conventional subdivision. Mr. Kevan displayed a map showing the proposed lots and stated that one of the primary points in the conceptual was to keep the farm land and meadow intact. It is a significant feature which will remain on a single parcel of approximately 25 acres or more. The remaining lots are not less than 5 acres which by nature preserve open space. A Wetland Scientist has mapped the area and it appears there are 92 acres out of the 115 that would be developable or useable. As for an OSDP, when reviewing the formula there could be up to 30 units/houses and the best area for these units would be the farm land and meadow.

Chairman Merrell asked if any thought has been given to a mixed use; part OSDP and part conventional. Mr. Kevan replied that they have not considered mixed use for a couple of reasons. The most likely spot for an OSDP would be the farm land and meadow and the OSDP would create more roadways. In his view the conventional plan is less intrusive.

Member Doane asked if each lot would have enough upland on it to be buildable. Mr. Kevan replied there would be more than enough land for a house, driveway, septic and well.

Member Doane asked if there would be less environmental impact with a conventional subdivision versus an OSDP. Mr. Kevan does believe a conventional will have less impact.

Member Kresge commented that it appears about one third of the lots would have wetland crossings to get to a buildable portion. Mr. Kevan replied that the final delineation may be cause for some of the lots to be reconfigured.

Member Doane asked if the final version could have fewer lots. Mr. Kevan replied that it is possible. Mr. Shea interjected that they don't know what the final data will yield. They may have to combine two lots in which case they would look at making it eligible for current use.

Member Grodin asked if subdividing on a class VI road is permissible. Mr. Shea replied yes. To his knowledge there are no town ordinances or RSA's that prohibit it. Mr. Kevan added that documentation will be provided at the time a subdivision is presented to the board.

Chairman Merrell opened the meeting to abutters. Many residents of Ingalls Road were present and expressed concern about the increased traffic that will be generated by the proposed subdivision and how it will affect the already poor condition of the road.

Mr. Groder, who is a direct abutter to one of the proposed lots, stated concern over the loss of privacy due to the 200 foot width of most of the properties. Ms. Kwicien is an abutter who feels that the proposed subdivision is not consistent with the current development in the area. Development in the area has been slow and gradual with active farms and ample opportunities for outdoor recreations. According to her calculations the potential subdivision of 13 homes will result in a 62% growth in this corner of Jaffrey. Mr. Penick is the owner and operator of Ingalls Farm located at 168 Ingalls Road. Some of his concerns relate to safety, specifically the close proximity of the house on his property to the road as well as the entering and exiting at slow speeds of agricultural equipment. He also has concern about the farm's water source which is located less than 16 feet from the road and the potential for negative impact due to runoff. The well is the water source for the nursery, livestock

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and herb gardens. Letters from Mr. Groder, Mr. Penick and Ms. Kwiecien were submitted to the board.

Mr. Peter Chamberlain is an Ingalls Road resident and he spoke in favor of the conventional subdivision plan over the OSDP. Mr. David Halfpenny, an Ingalls Road resident, feels the conventional plan is the better choice however he too has concern for the road condition and the anticipated increase in traffic. Ms. Kristen Camp is an Ingalls Road resident and she feels the board should postpone making a decision on the CUP until they can consider all of the ramifications for either project and until feasibility studies are done on all aspects. Mr. Andy Lawn, an Ingalls Road resident, spoke in favor of the proposal being presented. Mr. John Brum is an Ingalls Road resident and he is in favor of the proposed layout however he has concern about increased traffic and the road.

Ms. Brenda Bhatti is a Jaffrey resident and she has worked on many projects like the one being presented. From an agricultural view she feels the conventional subdivision has some merit over the OSDP as it would protect the farm and meadow and allow a choice as to where the houses are placed unlike an OSDP that would view the farm and meadow as a prime building spot.

There being no further questions Chairman Merrell closed the public hearing.

Deliberations:

Addressing a letter submitted by Iona Kwiecien of Ingalls Rd. regarding conflict of interest and recusal which stated "This recusal applies to permanent and alternate members of the Planning Board, including, but not limited to, Robert Deschenes, Cindy Foley and James Moore." Member Grodin stated that in a small town there is no one on the planning board who doesn't have some type of relationship with an applicant. In a small town we all have our own personal agendas and we all took an oath to put them aside and vote for the town. It is not fair that someone, because of their occupation, is prejudiced.

Member McCarthy stated that he appreciates Member Grodin's comments and that he is confident, based on the past, that the board members know when they should recuse themselves.

Member McCarthy stated that he feels a conventional plan is better with respect to conservation than an OSDP. Member Kresge agreed with McCarthy although he does have some reservations that apply to the design portion. Member Deschenes also prefers a conventional plan as it appears to have less impact than an OSDP. Preserving the house and farmland is key.

2. PB 10-03; MIKEN Realty Trust, 295 Ingalls Rd., Map 223/ Lots 1 & 12, Zone: Rural (without town water)

Design Review - The applicant proposes a major subdivision of up to 14 lots.

Presentation: Jeff Kevan, TF Moran

Appearance: Mike Shea

Chairman Merrell reminded everyone that this is not a public hearing; it is a conceptual design review. It is non-binding for either the board or the applicant.

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Member Moore asked Mr. Shea if there were any comments given that would cause him to make any changes. Mr. Shea replied that Mr. Goundry had submitted a letter addressing lots 12, 13 and 14 and the possibility of rotating them a quarter turn clockwise. It doesn't appear that the idea as presented would work for all lots but they may give consideration to lots 12 and 13.

Chairman Merrell stated that he reviewed the soils maps and there appeared to be some issues with the soils, perks, wetlands and standing water. Chairman Merrell felt the board will need a clear picture of what the soils look like and what can be done. Lot number eight was used as an example – it is a complex soil with two different types of soils, one perks well and one doesn't.

Mr. Kevan stated that because it is not required by the State of NH and because the lots are greater than 5 acres they do not plan to do perk tests and test pits on each lot. If there are specific lots the board would like to have perked that can be done.

Member Grodin asked if the water table was high on any of the lots that don't have wetlands and is it enough to preclude a basement. Mr. Kevan replied that it is possible. There are high ground water situations on portions of the site and you would want to site a house appropriately.

Chairman Merrell brought up building on class VI roads and whether or not lot one is a viable building lot. Mr. Kevan reminded Chairman Merrell that the plan is conceptual. Lot lines may be adjusted during the final design.

Member Kresge commented that obtaining a building permit for a class VI road is different than subdividing on a class VI road. His opinion in this situation for subdividing on a class VI road is that it is scattered and premature. Mr. Shea replied that there is no RSA or town zoning ordinance that precludes subdivision on a class VI road and in fact there are improved lots beyond lot one and the road has already been improved.

Chairman Merrell commented that if the road is going to be upgraded he would like to see lots one and two combined to create a 17 acre lot. This would create some viable land to build on.

Member Grodin stated that he was unable to find state law or annotations on whether or not subdivisions on a class VI road are permitted and there is nothing in the town ordinances. Director of Planning and Economic Development, Joanne Carr was asked to research the issue for the board.

Chairman Merrell asked Mr. Shea if he was willing to consider the lot change suggested by Mr. Goundry. Mr. Shea replied that if the slopes and the wetlands come back and allow that then he doesn't have a problem with it.

Member Kresge mentioned that one aspect of the proposed plan that he feels is not in keeping with the neighborhood character is having a curb cut every 200 feet. Are shared driveways a possibility?

Mr. Kevan replied that a shared driveway can lead to trouble down the road with regards to maintenance. What has been done with other developments is to have one curb cut that looks like a single drive but it forks as you come in.

As for lots one and two Mr. Shea recognizes that the board prefers to see them as one lot because they are on a class VI road and because of the amount of wetlands. Mr. Shea stated that he has no objection at this time.

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Mr. Shea asked the audience if anyone had any comments or questions. The majority of comments returned to the poor condition of the road and the increased traffic that will be generated by a new development. Who is going to pay for any upgrades? Will it be a taxpayer burden? Could private property be taken to improve the road?

Chairman Merrell announced that the board had a letter from the DPW. The letter states that once a concept reaches final design stages they will sit down with Mr. Shea and discuss the road. Whatever the outcome is it will be addressed.

There being no further questions Chairman Merrell closed the public hearing.

PUBLIC HEARING – CONTINUED

None

DECISIONS

1. PB 10-02; MIKEN Realty Trust, 295 Ingalls Rd., Map 223/ Lots 1 & 12, Zone: Rural (without town water)

Conditional Use Permit – The applicant proposes a conventional subdivision of up to 14 lots.

On a motion by McCarthy seconded by Doane the application for a conditional use permit proposing a conventional subdivision of up to 14 lots was approved as presented and per testimony given. (7-0)

OTHER BUSINESS

- LGC publication – What do you do when they stop building?

Copies to be ordered for the board.

- Vested Rights –

Ms. Jo Anne Carr, Director of Planning and Economic Development drafted language to be used in the site and subdivision regulations of the zoning ordinance regarding vested rights. A copy will be e-mailed to the board and it will be discussed at the February meeting.

- Housing and Community Development Plan –

Ms. Carr stated that the plan has to be adopted by the Selectmen in advance of applying for or receiving a Community Block Grant. She will review the current plan and try to stream line it to possibly one or two pages. The board would like to review the changes at the February meeting and with their permission the document will go before the Selectmen.

- Open Space Committee –

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Member Kresge is in the process of forming a committee. He hopes to have an organizing meeting on Jan. 20th and come to an agreement on what the scope will be for the committee.

ADJOURNMENT

The meeting adjourned at 9:42 p.m.

Submitted:

Erlene Lemire
Recording Secretary

Attest:

Edward Merrell
Chairman, Jaffrey Planning Board