

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**PLANNING BOARD**  
**Meeting Minutes**  
**July 26, 2011**

**Present:** Chairman Merrell, Members Deschenes, Despres, Doane, Kresge, McCarthy and Moore

**Absent:** Member Grodin and Selectmen's Representative MacIsaac

**Staff:** Recording Secretary Lemire, Jo Anne Carr, Director of Planning and Economic Development, Building Inspector Baron, Town Counsel Dowd

**MEETING MINUTES APPROVAL**

No Action

**PRELIMINARY HEARING**

None

**CALL TO ORDER**

Chairman Merrell called the compliance hearing to order at 7:30 p.m. Notice of public hearing PB 11-12 was posted in the Town Office building, the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen.

**COMPLIANCE HEARING**

Chairman Merrell explained that the hearing is a compliance hearing which is a review of the conditions set by the Planning Board on the approval of the Van Dyke project. There will be no comments from the audience; it is between the applicant and the board.

At the time the final decision was rendered a number of conditions were attached. Chairman Merrell began the review for each condition that applies.

1. Phasing of the development shall occur over a minimum of 3 years, with 12 building permits per year (plus any unused permits accruing from prior years), all to be specified in and governed by a Development Agreement between Applicant and the Selectmen.
2. Prior to signing the plan:
  - A. The Jaffrey Department of Public Works shall certify to the Board that it is satisfied with all engineering and utilities plans, and that all modifications to the plans have been made as set forth in a memorandum from the Department dated November 2, 2004, an email from the Department dated July 13, 2005, a Memorandum dated September 2, 2008, and as otherwise required by the Department.

Chairman Merrell acknowledged the memo from the DPW dated July 26, 2011 stating that the DPW "certifies that we are satisfied with all engineering and utilities plans and that all modifications to the plans that have been made as set forth in a memorandum from the Department dated November 2, 2004, an email from the Department dated July 13, 2005, and a memorandum from the Department dated September 2, 2008."

Chairman Merrell stated that condition A has been met.

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- B. Applicant shall submit an executed Development Agreement with the Selectmen relative to public water, payment of impact fees, and any other pertinent items. The Board understands that the Development Agreement submitted by both parties to the Cheshire County Superior Court will not govern, as the approval is for less than 36 units.

Chairman Merrell is with the understanding that the Development Agreement has not been signed. Mr. Van Dyke stated that he could sign it tonight however it still needs to go to the Town Manager and the Selectmen.

Chairman Merrell stated that this condition is not complete.

- C. Applicant shall submit a bond or irrevocable letter of credit, in an amount and form satisfactory to town Counsel and the Selectmen, to guarantee all of its obligations for landscaping, buffering, engineering, public water, site construction, road construction, ongoing inspections, and legal enforcement in the event of any violations of the conditions of subdivision approval and/or the Development Agreement.

Mr. Van Dyke stated that he will put the bond up for the balance of the road. Chairman Merrell asked if there was a bond in place. Mr. Van Dyke stated that he has a restoration bond. Chairman Merrell asked if there was a bond for the guarantee for all of the obligations. Mr. Van Dyke replied that DPW will see what work has been done and at that point he will obtain a letter of credit based on that.

Attorney Dowd added that he received late today two letters from Attorney Ratigan expressing concerns indicating that Mr. Van Dyke had not been able to procure a bond or letter of credit as required under the conditions and that he was requesting a continuance. He also indicated that Mr. Van Dyke would be willing to put up monies so the town could get a third party out to inspect site work that is on-going and that Mr. Van Dyke would proceed with the road work at his own risk. He would like to return to the board early September at which time Mr. Van Dyke would furnish a letter of credit for the remaining improvements.

Chairman Merrell stated that this condition is not complete.

- D. Applicant shall provide copies of any and all necessary state and/or federal permits required to go forward with the project, including, but not necessarily limited to, a National Pollutant Discharge Elimination System Permit and a Storm Water pollution Prevention Plan.

All permits have been obtained with the exception of the Alteration of Terrain. The extent of impact area has not been confirmed. The application will be reviewed by DES and a determination will follow.

Chairman Merrell stated that this condition is not complete.

- E. Applicant shall submit a Declaration of Condominium for the project, approved by Town Counsel, which Declaration, or the Bylaws thereof, shall contain all of the continuing conditions of this approval, including those imposed by the ZBA (see, infra.) as a condition of Applicant's variance.

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Chairman Merrell asked if the document was submitted and reviewed. Town Counsel Dowd replied that he had reviewed the Declaration of Condominium and it is acceptable for the purpose of this meeting. Approval from the Attorney General's office is still required.

- F. As a condition of the granting of the waiver concerning easements, Applicant shall submit to the Town Manager, Department of Public Works and Building Inspector a list of all instruments granting or encumbering the property, accompanied by copies of said instruments. The Town Manager shall confirm in writing to the Planning Board that staff has received and reviewed the required instruments and, to the best of their knowledge and judgment, the easements do not interfere with Applicant's proposed development of the property or negatively impact the Town.

Chairman Merrell stated that he has a copy of a letter from Attorney Ratigan to Attorney Dowd dated June 21, 2011 which says "Enclosed please find a list and copies of the "instruments granting or encumbering the property" as is required by Condition of Approval II, 2, F.

Chairman Merrell asked if we had the letter from the Town Manager stating that staff has received and reviewed the required instruments. The letter was not in hand but it was agreed by the board that the documentation was submitted and the letter from the Town Manager can be done at any time.

On a motion by Doane, seconded by Despres the board continued the hearing until Wednesday, September 7, 2011. The meeting will be held at 7:00 p.m. at the Town Office.

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

**OTHER BUSINESS**

None

**ADJOURNMENT**

The meeting adjourned at 8:15 p.m.

Submitted:

Erlene Lemire  
Recording Secretary

Attest:

Edward Merrell  
Chairman, Jaffrey Planning Board