

TOWN OF JAFFREY
Jaffrey, New Hampshire
PLANNING BOARD
Meeting Minutes
January 14, 2014

Present: Chairman Kresge, Members Deschenes, Despres, Merrell, McKenzie, Moore and Selectmen's Representative Alternate Rothermel.

Absent: Members Bergeron and Grodin

Staff: JoAnne Carr, Director of Planning and Economic Development

MEETING MINUTES APPROVAL

On a motion by Moore, seconded by Merrell the minutes of the November 12, 2013 public hearing were approved as amended. (5-0)

On a motion by Merrell, seconded by Moore the minutes of the December 10, 2013 public hearing were approved as submitted. (5-0)

PRELIMINARY HEARING

None

CALL TO ORDER

Chairman Kresge called the public hearing to order at 7:00 p.m. Notice of the public hearing PB 13-09 and PB 14-01 through PB 14-03 was posted in the Town Office building, the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen. Member McKenzie voted.

APPLICATION ACCEPTANCE

0. PB 14-01 Blais, Robin Peard., 10 Sunset Ln., Map 245 Lot 99 and Map 245 Lot 98, Zone: General Business

Technical Subdivision – The applicant proposes a lot line adjustment.

On a motion by Merrell, seconded by Deschenes the board concurred that the application was not one of regional impact. (7-0)

On a motion by Merrell, seconded by Deschenes the application proposing a lot line adjustment was accepted. (7-0)

1. PB 14-02 Flesher, Grace A & Seligman, Leaf, 179 Dublin Rd., Map 229 Lot 9.1, Zone: Rural (without town water), Mountain zone.

Minor Subdivision – The applicant proposes a two lot subdivision.

On a motion by Deschenes, seconded by Moore the board concurred that the application was not one of regional impact. (7-0)

On a motion by Merrell, seconded by Rothermel the waiver requests to check list items 15 and 18 of the General Plat Requirements were granted. (7-0)

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On a motion by Merrell, seconded by Moore the application proposing a two lot subdivision was accepted. (7-0)

3. PB 14-03 FW Greene Estate, Mountain & Gilmore Pond Roads, Map 228 Lot 55, Zone: Residence A, Rural (with town water), Mountain Zone.

Major Subdivision – The applicant proposes a five lot subdivision.

On a motion by Merrell, seconded by Deschenes the board concurred that the application was not one of regional impact. (7-0)

On a motion by Merrell, seconded by Deschenes the application proposing a five lot subdivision was accepted. (7-0)

4. PB 13-09 Caissie, Dominique (Terrapin Glass), 20 River St., Map 238 / Lot 10, Zone: General Business

Minor Site Plan – The applicant proposes a glass blowing studio.

Several waivers were requested and reviewed by the board. Also addressed were the review comments submitted by the Planner, JoAnne Carr; specifically checklist item five which calls for existing buildings located with 200 feet of the site's boundary. The comments state that they have been shown but it is not clear if any of these buildings are within 15 feet of the proposed structure. Chairman Kresge asked Ms. Carr if this was still the case. Ms. Carr replied yes. Chairman Kresge feels that the two germane issues are the lack of surveyed boundary lines and lack of location for abutting buildings.

Member Merrell feels they would be opening themselves up to problems if the sketch is not accurate. Member Moore feels that since the lot is downtown the corner pins should be set so that they can insure that the abutters are in agreement with the boundaries. Member Deschenes agreed with Member Moore asking how close is the building to the boundary line? If they are going to grant something that is that tight on a property they should be sure it's going to fit.

Mr. James Van Campen stated that they have measured twenty-five feet to the boundary line and another five foot setback to the garage; in total it is thirty-feet. Ms. Caissie added that there are fences and stone walls at every line of her property and corner stones as well.

Chairman Kresge pointed out that abutting buildings within 200 feet are shown on the aerial photo but not on the sketched plan. Ms. Carr stated that although she feels it can be corrected her concern for the scale is that it is inconsistent in terms of the dimensions.

Chairman Kresge asked Member Deschenes for his thoughts – what if the existing boundaries are clear on the ground due to fences and markers. Member Deschenes replied that they should refer to the deed to confirm that what is being called a stone wall is in fact a boundary. Mr. Van Campen interjected that according to the town survey the boundary is the stone walls. An abutter stated that they were told the same thing when they purchased their property – that the stone walls were the boundaries.

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Member Moore stated that on checklist item 3 the dimensions on the sketch do not correspond with the notes on the town survey and there is no scale on the sketch. He feels this would open the board up to potential problems.

Selectmen's Representative Alternate Rothermel asked if they could proceed with potentially a conditional approval. Chairman Kresge felt it would be a speculative proceeding and he would rather not progress through a hearing and arrive with a condition at the end of it.

On a motion by Merrell, seconded by Moore the application proposing a glass blowing studio was not accepted. (7-0)

Reason: A more definitive layout of the buildings and the property is required.

Ms. Carr clarified for the applicant that at this point they were entitled to ask for a waiver to the survey as they discussed however the Planning Board does not feel comfortable granting a waiver for the survey. They are not denying the application they are saying you should withdraw it without prejudice so that you can return to the board with a better scaled plan or a survey.

PUBLIC HEARING – NEW

1. PB 14-01 Blais, Robin Peard., 10 Sunset Ln., Map 245 Lot 99 and Map 245 Lot 98, Zone: General Business

Technical Subdivision – The applicant proposes a lot line adjustment.

Presentation: Robin Peard-Blais

Appearance: Mr. Kevin Feeney, McDonalds Corporation

Ms. Blais owns both lot 99 and 98. Lot 98 is the site of McDonalds and the land is leased from Ms. Blais. What is being proposed is a lot line adjustment of 5,100 square feet from lot 99 to lot 98. The area in question is presently noted on the plan as a paved drive and shown to have access to lot 99. The transfer will not cause an access problem to lot 99 as Ms. Blais owns Sunset Lane which also has access to lot 99.

The purpose of the transfer is to give McDonald's a little more room which could be used for additional parking or perhaps a remodel of the drive-thru but there are no immediate plans. Mr. Feeney stated that they simply took advantage of the offer so as to not lose the opportunity.

In reviewing the plan Chairman Kresge pointed out that there are currently two residences using Sunset Lane; should Ms. Blais have any future plans for the back lot, lot 99, it will raise other issues. Ms. Blais was aware.

Mr. Robert Aho is an abutter at 11 Sunset Lane and has a deeded right of way over Sunset Lane. He is not opposed to the project but he has concern over what McDonald's may do; additional lighting would be an issue; would there be fencing? Mr. Aho was assured that this application was solely for the lot line adjustment and if McDonald's plans any changes they will warrant site plan review.

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

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2. PB 14-02 Flesher, Grace A & Seligman, Leaf, 179 Dublin Rd., Map 229 Lot 9.1, Zone: Rural (without town water), Mountain zone.

Minor Subdivision – The applicant proposes a two lot subdivision.

Presentation: Grace Flesher

Appearance:

Ms. Flesher is part of a trust that recently purchased the property at 179 Dublin Road. The parcel contains a single family home and garage on 20.7 acres. The proposal is to subdivide off a 9.97 acre parcel with both lots sharing the existing driveway and well. The new lot line will run between and separate the existing house and garage. The garage will be added on to and a separate septic system for the new lot will be installed. If the need should arise in the future provisions for a new well and driveway have been considered and have been noted on the septic plan. Ms. Flesher pointed out to the board that all of the proposed work will disturb the natural setting as little as possible.

Mr. Jack Minter asked if the sharing of a driveway and well would be an awkward arrangement if down the road there are different owners. Ms. Flesher stated that there is adequate frontage to construct a new driveway for the existing house and they plan to do a series of plantings along the lot line between the two structures so as they fill in and grow there will be quite a bit of screening.

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

3. PB 14-03 FW Greene Estate, Mountain & Gilmore Pond Roads, Map 228 Lot 55, Zone: Residence A, Rural (with town water), Mountain Zone.

Major Subdivision – The applicant proposes a five lot subdivision.

Presentation: Sam Greene, Eric Mitchell – Eric C. Mitchell & Assoc. Inc.

Appearance:

Mr. Greene presented the application on behalf of the FW Greene Estate, Inc. The parcel consists of 166.9 acres and they are proposing a five lot subdivision. Four of the lots will be house lots consuming 12.88 acres. The remaining 154.04 acres is part of a conservation easement with the Natural Resource Conservation Service which is part of a wetlands program. It was placed on the property in 2010/2011 and the easement area will remain undeveloped. Mr. Greene explained that when they agreed to the easement they wanted to hold out a few lots that would be for selling purposes in the future if need be.

Describing the proposed lots Mr. Greene stated that lot 55.4 is in both the mountain zone and the Residence A district and is the largest of the parcels at 7.04 acres even though the minimum lot size is three acres. The reason for this is there is a fair amount of wetland on the eastern side and a cart path through the property that accesses what is called the Old Parade Grounds. They would like to keep some form of access to the parade grounds and the larger lot allows for more options in placing a home or relocating the path. This parcel will have a well and septic and has a State approved curb cut. Lot 55.3, also in the mountain zone is a 3.24 acre parcel with a couple of old cabins that are uninhabited and not serviced by water or sewer. This parcel will also have a well and septic and has a State approved curb cut. Lot 55.5 is a 1.03 acre parcel at the corner of Mountain Rd. and Gilmore

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Pond Rd. It is in the Residence A district which without town sewer is a one acre minimum lot size; this parcel is also partially within the Historic District overlay and will be serviced by town water. Lot 55.6 is a 1.56 acre parcel solely in the Residence A district. It has a one acre minimum lot size and will also be serviced by town water. Both lots on Gilmore Pond Rd. meet the town's frontage requirement. Abutting lot 55.6 has a fifty foot wide access to the east side of the remaining 154 acres. This is necessary to accommodate the occasional logging that takes place and placing an access on the downhill side of a building lot versus the uphill side was deemed best. Chairman Kresge asked if the access was part of the conservation easement. Mr. Greene stated that the easement covers everything that is not one of these lots.

Mr. Greene stated that what they are proposing is much like a traditional subdivision. They have already preserved the open space with the easement so it is not an OSDP (open space development plan). Due to wetlands and topography there are only four spots to subdivide. This is why they have submitted a Conditional Use Permit application as well.

Mr. Mitchell addressed the Planner's review comment regarding the test pit on lot 55.6. Evidently test pits were done by a septic designer prior to his involvement with the easement. They have reviewed them and used them and they are adequate to do the subdivision. State subdivision approval has been received for all four lots but in the review the test pit is about fifty feet from the edge of wet and it requires at least a hundred feet. They have reviewed the soils in that area and it is a marlow soil which is a deep soil and ledge is not a problem. Mr. Mitchell is also a licensed septic designer and he does not have an issue in knowing that the lot itself can support a septic system even if it has to be fifty feet further uphill than what it is. Septic systems have not been designed or submitted.

As part of the review they were asked to submit an application for a Conditional Use Permit. The project is more of a conventional subdivision and not an OSDP by definition in the town's ordinance. Mr. Mitchell stated that in many ways it is already an OSDP where there are 166 acres with 154 being preserved and only four house lots. Without the easement if someone wanted to develop it with some internal roads there would be more lots and less open space. The plan also meets the intent of the Master Plan by preserving the open space. Mr. Mitchell feels that they meet the requirements of what an open space would look like but it doesn't meet the definition exactly.

Regarding lot 55.5 and view sheds Chairman Kresge asked Mr. Greene if he had considered alternative configurations to try and achieve their goal. Mr. Greene replied they had not primarily because there were not many choices. The family realizes it is a sensitive lot and agreed that it would probably be the last one to be sold. The truth is however that they are also responsible for the Manse (the residence at 786 Gilmore Pond Rd.) and they have made a conscious decision to find a way to put money aside, such as a bank account, so that there is a future generation of income. Mr. Greene also pointed out that lot 55.5 is partially within the historic district. He could not commit without family approval but he feels it would be advantageous to place the lot into the historic district to ensure that any structure built would be in keeping with the district. Chairman Kresge questioned if it would already be subject to the historic district guidelines because it is partially in it.

Chairman Kresge asked who benefited from the view easement over lot 55.5. Mr. Greene stated that there are a couple of view easement lines one of which benefits his home next door. It was pointed out that this lot has a modest building envelope and the easements are written into the deeds and are very specific as to what the view is.

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Abutter Mr. Sid Bixler expressed his appreciation to the Greene family for preserving the land for the past 100 – 200 years and it seems that this application is contrary to that. He is opposed to the application. The area is very simple with the meeting house, the church, a park and the Manse. He feels that a house in that area will detract from the charm and beauty of the area. As for the scenic view of the public way he feels that any house on that lot regardless of the location will block the view of the mountain from Gilmore Pond Rd. He requested that the board reject the application or at least reject lot 55.5.

Mr. Ken Campbell representing the Village Improvement Society would like more information on the seven acre parcel, lot 55.4. Mr. Mitchell stated that the eastern side of the lot is in the residence A district and mostly wet in the front making it unbuildable and merely extra acreage. The buildable portion of this parcel is to the west in the mountain zone.

Abutter Ms. Nancy Beiter asked for clarification on where the conservation easement is in the area of Gilmore Pond and Mountain Road. Mr. Mitchell explained that it comes up behind and to the side of the proposed lot and to the roadway.

Abutter Ms. Barbara Danser asked if the deed for lot 55.4 would dictate that there would be only one lot. Mr. Greene stated that the building envelope is only big enough for one house and no further subdivision would be possible; he is not sure that it would be so stated in the deed. Ms. Danser also asked about the status of the future of Laban Ainsworth pond. Mr. Greene explained that the Engineers of the NRCS are working on a plan; the existing dam needs to become a non-hazard dam. It will be an impounded wetland area but not nearly the size that it once was.

Representing the First Church Ms. Janet Grant echoed Mr. Bixler with respect to appreciation to the Greene family for preserving the land and they too are not in favor of creating lot 55.5.

Mr. Charles Royce asked if the land under conservation easement is open to the public. Mr. Greene replied yes but it is posted against hunting along Route 124.

Resident Ms. Nancy Lloyd is in favor of labeling lot 55.5 as undevelopable.

Member Moore feels that it's important for the board to know what restrictions may be in the easement; are farm structures allowed? Mr. Greene did not know all of the restrictions off the top of his head but he believes that farm structures or any structures for that matter are not allowed. A copy of the easement was obtained from the property file and placed into the record.

Mr. Mitchell spoke to the Conditional Use Permit and asked the board to review it based on balance. There are specific criteria that must be met as to why this could be a traditional subdivision and not an OSDP; Mr. Mitchell feels they have met the criteria. Mr. Mitchell stated that the property is over 160 acres in size; what's being subdivided into house lots is 10% or less.

Deliberations:

During the deliberations the board reviewed the following criteria for the Conditional Use Permit.

- a) The site is suitable for the use given the availability of adequate public services and the absence of environmental constraint.

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Chairman Kresge stated that the lots being divided have proper road frontage and width, municipal water and on-site septic systems. He did not see any problem with adequate public services with any of the four lots. Board members agreed there were no issues with availability of public services or environmental issues.

- b) Impact on public and private rights of others shall not be greater than the impacts of other permitted uses in the zone.

Chairman Kresge stated that the potential building lots would be residential lots and he does not see any impact other than what is already permitted in the Mountain Zone, Rural Zone and Residence A district. The board members agreed.

- c) The proposed layout, design and structures shall not be incompatible with the established character of the neighborhood.

Chairman Kresge stated that there are no structures at this point. As for the proposed layout of the proposed lots there has been some concern about whether they are consistent with the character of the neighborhood. The response from the applicant is that the proposed lots are generally larger and have longer frontages than the adjacent lots. Housing construction on these lots will be compatible with the neighborhood.

- d) The proposed use of the site will not affect natural, cultural, historic and scenic resources on the site.

Chairman Kresge feels item D goes hand in hand with item C. Lot 55.5 has an impact. Member Merrell commented that the lot does not go to Mountain Road; there is part of the easement between the lot and Mountain Rd. Based on that he feels it is a moot issue. Chairman Kresge replied that the view down the field from the corner of Mountain Road would be partially taken up by the building lot. On the other hand just because you own a pretty field does not mean you cannot subdivide it.

Questions to ask are what's the value of the view? How much impact is there? Is that counterbalanced by the large amount of land going into conservation easement? Member Merrell reiterated that the way the lot is configured with the easement covering the corner is appropriate.

Selectmen's Representative Alternate Rothermel asked if the allowances in the easement can be used in addressing the questions. Chairman Kresge feels it could be part of what they are weighing as the value to the town. The nature of the easement does not allow a lot on the property; compatible uses are haying, grazing and wood products subject to written approval by the Feds.

Items C and D were combined and voted on as one. Chairman Kresge explained that a "Yes" vote would mean that they feel these criteria are

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satisfied by the proposed configuration and a “No” vote means that they feel the impacts would be greater than the benefit of the proposed configuration so they would not fit the criteria. A voice vote was taken. The board unanimously voted in the affirmative.

- e) The proposed use will not diminish surrounding property values.

Member Kresge stated there has not been any testimony at this point and he does not see why these lots would diminish property values. By consensus the board agreed.

- f) The proposed use will not result in extraordinary fiscal impact to the Town.

Chairman Kresge does not see any fiscal impact to the town with the exception of new water connections and taxes. By consensus the board agreed.

- g) OSDP/VPA development is not reasonably feasible given the unique characteristics of the site.

Chairman Kresge stated that the land included in the house lots is the only land which is not burdened by the existing 154 acre conservation easement. This criterion is met by this proposal but this is virtually an impossible criterion to meet for most projects. By consensus the board agreed.

- h) The proposed use is not contrary to the intent of the Master Plan and the OSDP ordinance.

Chairman Kresge stated that the proposal is consistent with the town’s Master Plan. By consensus the board agreed.

- i) Economic hardships and personal, family circumstances to be considered.

Chairman Kresge stated that there is no complaint of hardship and therefore does not feel that it is relevant. Board members agreed.

Subdivision configuration:

Chairman Kresge asked the board to now consider whether the configuration as presented merits approval. The seven acre lot was an issue during the presentation but it seems to have been resolved. Chairman Kresge asked the board if anyone felt that lot 55.5 was an unreasonable imposition on the Jaffrey Center neighborhood that would disqualify it as a building lot. Member Moore commented that it meets all of the criteria.

Chairman Kresge stated that the general criteria for acceptance of a subdivision is that it will blend harmoniously with the surrounding neighborhood, that it will be environmentally sensitive, that it will protect existing and potential water sources, it will preserve wherever possible scenic open space particularly that visible from the public way and that provisions

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for landscaping and /or visual buffers between the area to be developed and the street(s) to which the subdivision has access.

Ms. Carr commented that if lot 55.5 is sold it would remain partially within the historic district lending some assurance that the building construction would have to conform to the HDC regulations. Chairman Kresge noted that although it depends on the interpretation of the line bisecting the lot he feels it's safe to assume that a building permit application for this lot will go before the HDC.

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

PUBLIC HEARING – CONTINUED

None

DECISIONS

1. PB 14-01 Blais, Robin Peard., 10 Sunset Ln., Map 245 Lot 99 and Map 245 Lot 98, Zone: General Business

Technical Subdivision – The applicant proposes a lot line adjustment.

On a motion by Moore, seconded by Merrell the board approved as presented and per testimony given the application proposing a lot line adjustment subject to the following conditions:

Condition precedent:

1. Plan to be stamped by a NH Surveyor
 2. Corners to be pinned or bonded
2. PB 14-02 Flesher, Grace A & Seligman, Leaf, 179 Dublin Rd., Map 229 Lot 9.1, Zone: Rural (without town water), Mountain zone.

Minor Subdivision – The applicant proposes a two lot subdivision.

On a motion by Deschenes, seconded by Despres the board approved as presented and per testimony given the application proposing a two lot subdivision.

3. PB 14-03 FW Greene Estate, Mountain & Gilmore Pond Roads, Map 228 Lot 55, Zone: Residence A, Rural (with town water), Mountain Zone.

Major Subdivision – The applicant proposes a five lot subdivision.

On a motion by Merrell, seconded by Despres the board approved as presented and per testimony given the application proposing a five lot subdivision.

OTHER BUSINESS

Voluntary Merger (Stonehill) – signed

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ADJOURNMENT

The meeting adjourned at 10:07 p.m.

Submitted:

Attest:

Erlene Lemire
Recording Secretary

Mark Kresge
Chairman, Jaffrey Planning Board