

LONDONDERRY, NH PLANNING BOARD **MINUTES OF THE MEETING OF MAY 4, 2016 AT THE MOOSE HILL COUNCIL** **CHAMBERS**

Members Present: Art Rugg, Planning Board Chair; Mary Soares, Vice Chair; Chris Davies, Secretary; Giovanni Verani, Ex-Officio; Rick Brideau, CNHA, Ex-Officio; Leitha Reilly; Al Sypek; Ann Chiampa (alternate member); Ted Combes (alternate member).

Also Present:

Colleen Mailloux, Town Planner; John R. Trottier, P.E., Assistant Director of Public Works and Engineering; Laura Gandia, Associate Planner (TEMP)

Chairman A. Rugg called the meeting to order at 7:00 PM, and began with the Pledge of Allegiance. Chairman Rugg appointed alternate member Ann Chiampa to vote for Scott Benson.

ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES

M. Soares made a motion to approve the minutes of April 6, 2016 as presented. R. Brideau seconded the motion. The motion was granted, 8-0-0. The Chair voted in the affirmative.

M. Soares made a motion to approve the minutes of April 13, 2016 as presented. R. Brideau seconded the motion. The motion was granted, 8-0-1. Al Sypek abstained. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATION – GREEN MOUNTAIN MESSENGER PARKING LOT EXPANSION - 57 HARVEY ROAD PARKING AND ACCESS DRIVE EXPANSION, MAP 14, LOT 44-8

C. Mailloux recommended that the project is not a development of regional impact, as it does not meet any of the regional impact criteria provided in the guidelines prepared by Southern NH Planning Commission (SNHPC).

M. Soares made a motion to accept Staff's determination that this project is not a development of regional impact.

R. Brideau seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

C. BUILDING PERMIT REQUEST ON A CLASS VI ROAD –SUSAN CARL (OWNER) – MAP 17 LOT 42a, 38 JACK'S BRIDGE ROAD/PAGE ROAD, ZONED AR-1

Member Giovanni Verani recused himself from the discussion. Chairman Rugg recognized Senior Building Inspector Richard Canuel who addressed the Board regarding the process and procedure for issuing building permits on Class VI roads. R. Canuel stated that in the past applicants went before the ZBA to request a variance to build on a Class VI road, and after a release of municipal liability was recorded, construction proceeded; however, New Hampshire statute 674:41, provides for a different method of obtaining building permits on Class VI roads. This process, pursuant to statute, provides that the Town Council authorizes issuance of a building permit after the Planning Board's review and comment. He noted the difference between an existing lot of record and a new lot created by a subdivision. He spoke of some ordinances that have a lot of record clause which exempts existing lots from the dimensional provisions of the zoning ordinance. Londonderry does not have that type of ordinance so that is why applicants were previously sent to the ZBA for a variance. He noted that the Planning Board's role in the process may increase as lots become scarce for development. He also noted that the Planning Board's role in this process focuses on public safety and also on whether the development would be considered scattered and premature based on the lack of infrastructure. The statute contains a two-step process: (1) Planning Board's review and comment, and (2) Town Council authorization for the issuance of a building permit with the recording of a release of municipal liability at the Rockingham County Registry of Deeds. He added that there could be a third step, a ZBA application for a variance, to the process. He explained that this would not be a necessary step if the lot was an existing lot of record. He spoke of the constitutional provisions regarding a taking of land. He reviewed with the Board language from a sample release that the Town currently uses.

Chairman Rugg welcomed questions from the Board. A. Chiampa asked about the condition of the right of way as you move east on the road. J. Trottier stated that there is no road after the barn. C. Mailloux stated that the parcel in question, zoned AR-1, is about 2,000 feet down the Class VI road, and there are other residences on the road. She noted that this lot had an address of Jack's Bridge Road. She informed the Board that Jack's Bridge Road was discontinued in 2004 by the Town Council for the Harvey Windows development, and that the discontinuance eliminated access for the lot from the Jack's Bridge Road portion leaving the only access from Page Road. She explained to the Board that the statute does not provide review standards for Town Council or Planning Board, and the Board should look at planning issues, premature and scattered development, etc. She referenced her memo, and spoke of fire concerns and emergency vehicles' access to the lot and possible difficulties accessing the lot due to wetlands. She directed the Board to outline its concerns for Town Council. Chairman Rugg reminded the Board that this was not a public hearing. He asked about the length of the road, and C. Mailloux stated that the first 1,000 feet of the road is maintained by the existing residences, and the remaining 1,000 feet is not maintained as there is nothing there. C. Davies stated that based on the existing residences already there, it is not scattered development. Chairman Rugg concurred. C. Davies was informed by R.

Canuel that the release is required by statute. R. Canuel read a portion of a sample release. M. Soares asked about placing conditions with the Board's recommendation. R. Canuel stated that the Planning board has authority to review and comment on conditions. There was a discussion about turning the road into a Class V road, and the Town Council's authority to change the status of a road. C. Mailloux pointed out that the release provides for a 20 foot road width, and the Board can make comments regarding width, shoulders, standards, etc. G. Verani There was and the Board discussed the school bus stop located at Lucas and Page Road. A. Chiampa asked if there was a sign indicating that the road was not maintained by the Town. Giovanni Verani stated that there was no sign, and that the mailboxes, trash and bus pick-up are located at Page and Lucas Road. L. Reilly asked about the address, and C. Mailloux stated that the address should be changed to a Page Road address while suggesting that this be added as a comment/condition to Town Council. T. Combes asked about the responsibility of the payment and maintenance of the road. C. Mailloux stated that the cost sharing of the maintenance between property owners on Page Road would be a civil matter, and the Town Council and the Town attorney should consider this. The Town's agreement states that the owners are responsible for maintaining access. T. Combes asked about a taking of the property, and if the Town would have to pay for the lot. R. Canuel stated if there was a taking, the Town may be responsible for compensating the owner. L. Reilly asked about emergency vehicles entering the road, and the responsibility of damages to emergency vehicles that may get stuck during a response. She expressed concerns of purchasers not knowing that the lot is on a Class VI road. R. Canuel informed her that the release is filed at the registry. He also stated by state statute, the Town cannot require the inclusions of residential sprinklers in certain dwellings, but there is recent case law where the Court upheld the inclusion of residential sprinklers. This could be a consideration as part of the approval process on the current lot. A. Sypek spoke of the distance of the road from the barn, and the potential development of several other lots as well as the responsibility of the landowners for maintenance. He concurred with L. Reilly's concern about the lack of provision for who is responsible for damaged emergency vehicles and injured personnel due to the lack of maintenance. He thought it should be part of the release. R. Canuel stated that the property owner takes all of the liability for maintaining the road in the release. A. Sypek and L. Reilly were concerned about not having enough information. Further discussion ensued about making the road a Class V road, and the associated costs.

Giovanni Verani, of 73 Page Road, who lives on the road in question, addressed the Board. He stated that his relatives also live on the road on other lots. He informed the Board that there is no formal agreement in place. He expressed concern over the cost and responsibility of maintaining the road if it is further developed. He stated the improvements end right at the bend of the right of way where the barn is. He asked about the standards the new lot would have, and was informed by the Board that the standards would be the same as his standards. He asked if future development could deviate from the existing right of way, and C. Mailloux

stated that they would be required to stay within the existing right of way unless easements were granted. G. Verani spoke of the road being closed, and J. Trottier reminded him of Charlie Evans' discontinuance of the road to the northeast. G. Verani asked about the standards of creating a cul-de-sac. J. Trottier stated this would be a concern for the fire department. M. Soares asked about paving the road, and the associated costs. G. Verani stated that Page Road is a gravel road, and believes that it may be cheaper to keep it gravel. M. Soares also asked about the discontinuance of Jack's Bridge Road, and where it would have connected. C. Mailloux stated the primary access for this lot was from the discontinued part of Jack's Bridge Road. She also stated that the lot is almost 8 acres, and is an existing lot of record, zoned AR-1.

Chairman Rugg asked for input from the landowner. Susan Carl, 57 Route 103, Newbury, addressed the Board. She stated she is looking for a building permit to build a single family home, has no plans to subdivide or develop the land, and would be using the public right of way from Page Road as access. C. Davies asked about the size of the structure, and S. Carl did not have any specifics – she was just looking for a permit. She stated that last week she measured from the barn to the property, and it was less than 900 feet. C. Davies asked about the condition of the right of way. S. Carl stated after the barn it is hard to see the right of way, but about 20 feet after the barn, the road widens out to a nice path that you could maneuver a four wheel drive vehicle. There are no trees or brush – just tall grass. The Board members discussed the cost sharing aspect of maintaining the right of way. L. Reilly asked R. Canuel about the process with the Town Council. R. Canuel stated that Town Council can authorize the issuance of a building permit after review and comment by the Planning Board – The Planning Board has an advisory position. L. Reilly stated that the Board should point out all the areas of contention or concern. M. Soares thought it would be advisable for police and fire to come in and speak to the Board or Town Council or both. T. Combes asked about the road condition in the spring. G. Verani stated that parts of the road get muddy and there are pot holes. G. Verani also expressed concerns over who will maintain it. He stated that they are in a fortunate situation because they are all family, and did not know what would happen when the property changes hands. G. Verani stated that emergency personnel have been able to access the road for his mother, but there were times when the school bus was not able to get to the bus stop due to the conditions on Page Road.

Chairman Rugg asked for any other public input and there was none. Chairman Rugg asked S. Carl to provide information about wetlands, sizing, etc. L. Reilly asked S. Carl about her thoughts and expectations of an agreement with the other landowners about maintenance. S. Carl stated she has not talked to the other land owners.

The consensus of the Board was to review the matter, and get input from police and fire for the June 1, 2016 meeting. M. Soares exited the room.

- D. EXTENSION REQUEST – DIAMOND EDGE REALTY AND DEVELOPMENT LLC – KESTREL ESTATES SUBDIVISION – MAP 12 LOT 138, 115 HOVEY ROAD, ZONED AR-1 [CONDITIONALLY APPROVED MAY 7, 2014]

C. Mailloux stated that William M. Gregsak, PE, of Gregsak Engineering, Inc. requested a two year extension from the Planning Board in a letter dated April 28, 2016 for Kestrel Estates based on several outstanding items.

R. Brideau stated that the property is on the market. C. Mailloux stated she is not aware of that but the request was submitted because the Planning Department monitored the deadline, and reached out the applicant.

R. Brideau made a motion to grant the applicant's request for a two year extension to May 4, 2018.

Motion was seconded by A. Sypek.

Motion was granted, 7-0-0. The Chair voted in the affirmative. M. Soares was absent for the vote.

- E. MASTER PLAN IMPLEMENTATION ADVISORY COMMITTEE – COMMITTEE APPOINTMENTS

Mary Tetreau asked to be appointed to the committee as a full-time member leaving two alternate positions available.

A. Sypek made a motion to appoint Mary Tetreau as a full time member to the committee for one year.

R. Brideau seconded the motion.

Motion was granted, 7-0-0. The Chair voted in the affirmative. M. Soares was absent for the vote.

T. Combes questioned the time availability section of the application. Chairman Rugg stated that he believed the committee should meet quarterly. It was suggested to ask Kirby Wade to update the time availability section of the form to include a quarterly option. M. Soares returned to the Board.

- F. DISCUSSIONS WITH TOWN STAFF – There was none.

NEW PLANS

- A. Application Acceptance and Public Hearing for formal review of a subdivision plan to convert an existing duplex building to a condominium at 7 Cohas Terrace (Map 18, Lot 19, Zoned AR-I) – Grand Flyt Asset Management, LLC (Owner) and Michelle M. Flynn**

(Applicant).

Chairman Rugg read the case into the record. J. Trottier stated that there are no outstanding checklist items, and recommended that the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's Recommendation memorandum dated May 4, 2016.

R. Brideau seconded the motion.

Motion was granted, 8-0-0. The Chair voted in the affirmative.

The Chair noted that this starts the 65 day time frame to render a decision on the application.

Bryan Bailey, of Bryan L. Bailey Associates, Inc., 217 Cotton Hill Road, Gilford, New Hampshire, presented for the applicant. He stated that the property in question was a single family residence in the early 1980's, and in 1985-1986 the property was converted to a duplex. Now, the owners wish to convert it to a condominium. He stated that the required permit from NHDES for subdivision approval for a condominium conversion was granted, and a complete and conforming application in accordance with the Town's regulations along with a seven page plan set was provided (one page site plan, one page driveway profiles (driveways have existed for many years, and comply with the regulations), three pages showing internal dimensions of the building per the requirements of the condominium act). In a nutshell, he stated the owners are just changing the form of ownership - no change to the building or structure at all. Nothing is unearthed.

Chairman Rugg asked for input from the Staff. J. Trottier read off design review items as contained in the May 4, 2016 Stantec memo (attached), and recommended approval. C. Mailloux added the Town attorney reviewed the condominium documents, and found them acceptable.

Chairman Rugg then asked the Board for questions. R. Brideau stated that the neighborhood is mostly duplexes, and if the request is granted the change will not take place in the Town's records until next year.

Chairman Rugg asked for public input and there was none. He noted that there were no waivers.

M. Soares made a motion to approve the Subdivision Plan for Grand Flyt Asset Management, LLC (Owner and Applicant), Map 18 Lot 19 at 7 Cohas Terrace, Zoned AR-I, subject to all of the precedent conditions and general and subsequent conditions as outlined in Staff's Recommendations Memorandum dated May 4, 2016.

R. Brideau seconded the motion.

Motion was granted with the following conditions, 8-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development/Public Works & Engineering/Stantec review memo dated May 4, 2016.
2. The Applicant shall provide the Owner's Signature on the plans.
3. The Applicant shall provide an executed copy of the "Declaration of Condominium Covenants" to be recorded at the Rockingham County Registry of Deeds.
4. The Applicant shall provide a digital (electronic) copy of the complete final plan to the Town prior to plan signature by the Board in accordance with Section 2.05.n of the regulations.
5. The Applicant shall provide a check for \$25 (made payable to the *Rockingham County Registry of Deeds*) to pay for the LCHIP fee.
6. The Applicant shall note all general and subsequent conditions on the plans (**must be on a sheet to be recorded, or a separate document to be recorded with the subdivision plans**), per the requirements of RSA 676:3
7. Outside consultant's fees shall be paid within 30 days of approval of the plan.
8. Financial guaranty if necessary.
9. Final engineering review

PLEASE NOTE - Once these precedent conditions are met and the plans are certified, the approval is considered final. If these conditions are not met within two years to the day of the meeting at which the Planning Board grants conditional approval the board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting

information between documents, the most recent documentation and this notice herein shall generally be determining.

2. It is the responsibility of the Applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

OTHER BUSINESS:

A. SITE PLAN REGULATIONS – REVISION UPDATE

Chairman Rugg stated that the revision update is still under review. C. Mailloux stated that the parking and loading revisions are on the agenda for next week's workshop, and there other site plan regulation amendments that are still being worked on which will be presented next month.

ADJOURNMENT:

**M. Soares made a motion to adjourn the meeting at 8:25 p.m.
Seconded by R. Brideau. Motion was granted, 8-0-0.**

The meeting adjourned at 8:25 PM.

These minutes were prepared by Associate Planner (TEMP) Laura Gandia.

Respectfully Submitted,



Chris Davies, Secretary

MEMORANDUM

To: Planning Board

Date: May 4, 2016

From: Planning and Economic Development
Department of Public Works & Engineering
Stantec Consulting Services, Inc.

Re: Map 18 Lot 19
Condominium Conversion
7 Cohas Terrace

Owners: Grand Flyt Assess Mgmt., LLC

Brain L. Bailey Associates, Inc. submitted plans and supporting information for the above-referenced project. DRC and the Town's engineering consultant, Stantec Consulting Services Inc. reviewed the submitted plans and information, and review comments were forwarded to the Applicant's engineer. The Applicant submitted revised plans and information and we offer the following comments:

Checklist Items:

1. There are no checklist items.

Design Review Items:

1. The Applicant should provide the Owner's signature on the plans line per section 4.12.C.16 of the regulations.
2. We recommend the Applicant update sheet 1 to address the following:
 - a. Please provide the missing distance along the Cohas Brook boundary line on sheet 1 and dimension the pavement width of Cohas Terrace.
 - b. The line types for the 100-year flood line and soil type survey line that are the same and is labeled as the shore line in the legend. The line types should be unique for the different purposes and the legend should be updated accordingly.
 - c. Please clarify the wetland delineation line and update the legend accordingly.
 - d. Please correct the reference to note 11.1 in the 24" pine tree label at the northeasterly lot corner.
 - e. Please indicate the CO District signs on the plan.
 - f. Please verify the existing drainage easement is adequate with the Department of Public Works for the existing 24" drain pipe shown along the southerly lot line and update, if necessary.
3. We recommend the Applicant verify the DRC comments for the project are adequately addressed as applicable:
 - a. Please verify the comments of Assessor have been adequately addressed with the Assessor.
 - b. Please verify the comments of Conservation Commission have been adequately addressed with the Conservation Commission.
 - c. Please verify the comments of Planning Department have been adequately addressed with the Planning Department.

Board Informational Items:

1. The Applicant notes that updated copies of the condominium documents have been provided that are currently under review by the Town.