

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
January 24, 2017**

The meeting was called to order at 6:30 p.m. by Mark Suennen.

Present were regular members Mark Suennen, David Litwinovich and Ed Carroll, and ex-officio Joe Constance. Also present was Planning Consultant Mark Fougere and Planning Coordinator Shannon Silver.

Present for all or part of the meeting was Chairman Peter Hogan, Douglas Chapman, Jane Pollard, Ray Shea from Sandford Engineering, Building inspector Ed Hunter, William and Angela Fitzgerald, James Desruisseaux, Matt Braucher, Mike and Carrie DePetrillo, Thibeault representative Vinnie Iacozzi, Louis Rumore, abutters .

CHAPMAN, DOUGLAS R. (OWNER) (formerly Clark Hill Trust)

POLLARD, JANE M. (OWNER)

Compliance Hearing/Public Haring/Conditional Use Permit/One Wetland Crossing

Location: 50 Dennison Road

Tax Map/Lot #8/1-12

Residential-Agricultural "R-A" District

Planning Coordinator Shannon Silver said the Planning Board received a compliance letter from Jonathan Milky that indicates everything is complete according to the plan. The final inspection revealed substantial compliance with the design plans and permit. Erosion controls are in place and should be removed as soon as practical depending on ground conditions. The applicant plans to fulfill this in the spring. The security deposit was in cash and can be returned upon agreement today. The Planning Board received a supplemental plan for an As- built. A 15" culvert was replaced with one 18" and two 15" across the driveway. The applicant has been checking conditions across the street after heavy rains and it seems to be working well.

Joe Constance **MOVED** to accept the revised plan for wetland crossing as written and certified and to confirm compliance with the conditions subsequent to the approval of the conditional use permit for the installation of one wetland crossing on 50 Dennison Road Tax Map/Lot #8/1-12, Residential-Agricultural "R-A" District, and to release the security being held for said installation. Mark Suennen seconded the motion and it **PASSED** unanimously.

**MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD
AND/OR/PLANNING BOARD DISCUSSIONS**

Miscellaneous Business for the meeting of January 24, 2017, including, but not limited to:

1. Approval of the November 22, 2016, meeting minutes with or without changes.

**MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD
AND/OR/PLANNING BOARD DISCUSSIONS cont.**

Peter Hogan, Chair MOVED to approve the November 22, 2016, meeting minutes as presented. Joe Constance seconded the motion and it PASSED unanimously.

2. Endorsement of Non-residential site plan home business family daycare for Planning Board Chairman and Secretary. Peter Hogan will sign.
3. Letter copy to Town Administrator Peter Flynn from Planning Coordinator Shannon Silver SEDS Advisory Committee-Ed Carrol nominated and will be confirmed as appointed.
4. Copy of Board of Selectmen Consent Agenda appointing Ed Carroll to the SEDS Advisory Committee for Board information. The Planning Coordinator contacted Ed and Southern New Hampshire Planning Commission Executive Director, David Preece to let them know this is confirmed. David will contact Ed with meeting dates. Joe Constance noted Dan Donovan will be the business representative from New Boston.
5. Distribution of the January 10, 2017 Board minutes. The December minutes are not complete.
6. Letter dated January 19 from Matthew Braucher, Esquire from Craig, Deachman & Amann. He will attend tonight's meeting to discuss.
7. Endorsement of non-residential site plan showing existing conditions for John Wojdyla, Tax Map/Lot #3/68 at 614 North Mast Road for Chairman and Secretary.
8. Letter copy with zoning ordinance attachments. Code Enforcement Officer Ed Hunter and the applicant may attend tonight to discuss.

Joe Constance said he would like to talk to Planning Consultant Mark Fougere about the issue of cisterns in subdivisions and how other towns handle cisterns and sprinkler options. This is to try to get to an agreement for the Master Plan.

Mark Fougere said that in Hollis a map was created that showed where all existing cisterns were and delineated if streets had water for fire suppression or not. An impact fee of \$7,500 per new house is collected in Hollis for minor subdivisions of five houses or less and cisterns are required for major subdivisions of five houses or more.

The Coordinator said New Boston is dealing with these fees and if the money is not spent within a certain amount of time it is returned to developers. This has happened four times in the last year. Sometimes it is not the town's fault because the fees were collected to be used toward a certain project on CIP but the rest of the money to be collected on CIP was not collected over the years. Sometimes if the money is not collected for a certain project but is collected and not used it has to be returned.

**MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD
AND/OR/PLANNING BOARD DISCUSSIONS cont.**

Joe Constance noted most development is currently occurring on the east side of town and wondered if some fire suppression systems could be done there. He talked to the Fire Chief who said an insurance carrier came out to rate the town for fire protection and New Boston rated 6 out of 10, with 10 being the very worst rating, driven by the fact that some places in town are far from any water sources whatsoever. In some parts of town it may never get better but where development is currently occurring a fire suppression system could be done.

The Planning Consultant asked if all the new streets have cisterns.

Mark Suennen said some do but some have offered sprinklers instead and the Board accepted them for fire suppression and did not require cisterns in those locations, such as Indian Falls.

The Planning Consultant said that is a fair alternative as cisterns are expensive. If an impact fee is charged it has to be used within six years or returned to the developer. Hollis uses an exaction fee. The Fire Inspector wants to make cisterns larger from the current 30,000 gallons to 45,000 gallons and if sprinklers are allowed a supplemental cistern of 15,000 gallons should also be required as of 2017.

The Planning Consultant said New Boston does not require a firefighting water supply in a subdivision with less than five houses. This should be addressed in some fashion.

Joe Constance asked what are alternative fire protection systems.

The Planning Consultant said an alternative fire protection system could be sprinklers if the applicant volunteers for it or it could be protection of all surfaces with a fire suppression material.

Joe Constance said water on a fire truck doesn't count.

The Coordinator said the Fire Inspector will revise his submission and meet with the Board in February.

Joe Constance said the Fire Department can't mandate sprinkler inspection and asked how other places handle inspection of sprinklers that are already in place. New Boston sends out reminders to homes that have sprinklers to have them inspected every couple years.

The Planning Consultant said sprinkler inspection requirements were removed from the regulations a few years ago.

THE JANET RICH NIXON REVOCABLE TRUST (OWNER)
NIXON, LOUIS G., II & TRUDY M. (OWNER) **Adjourned from 1/10/17**
SANDFORD SURVEYING & ENGINEERING, INC. (APPLICANT)
Public Hearing/Minor Subdivision/Lot Line Adjustment/2 Lots
Location: Lyndeborough Road
Tax Map/Lot #'s 7/58 & 7/58-1
Residential-Agricultural "R-A" District

The Board accepted the application on January 10, 2017. The deadline for action is in March. A sitewalk was conducted January 14, 2017. Field notes are provided. There are some waivers to deal with.

Ray Shea from Sandford Surveying and Engineering, Inc. was present to discuss this subdivision. He explained this is a lot line subdivision. The proposed lot line adjustment was explained resulting in the Trudy M. and Louis G. Nixon, II lot becoming 5.88 acres, creation of a new 2.1 acre front lot and the 87 acre lot becoming an 89 acre lot containing 75 acres of conservation easement land. He also noted the driveway sight distance is currently good but is planned to be improved for the front and back lots. The Road Agent approved and signed off on the driveway improvement. The potential driveway location was viewed during the sitewalk. Some trees will be removed and driveway construction is expected to be simple. It is a viable building site.

Waiver requests were discussed:

Ray Shea explained a drainage study waiver is requested as there is very good drainage in the area, the whole area is pure sand, there is a culvert but water is usually absorbed by the ground before it gets to the culvert. Drainage is not expected to be affected by building a house there. The stormwater management plan for the long driveway has four infiltration swales taking hillside drainage and water from the road and dissipating it. No issue is expected due to soil, lay of land and only one house is being added. Therefore the waiver is requested.

A letter from the applicant dated December 14, 2016 with waiver requests for traffic impact study, drainage study and environmental impact study and fiscal impact study.

David Litwinovich **MOVED** to grant waiver requests for traffic impact study, drainage study and environmental impact study and fiscal impact study for The Janet Rich Nixon Revocable Trust (Owner) Nixon, Louis G., II & Trudy M. (Owner) Sandford Surveying & Engineering, INC. (Applicant), Location: Lyndeborough Road, Tax Map/Lot #'s 7/58 & 7/58-1, Residential-Agricultural "R-A" District, as complete. Joe Constance seconded the motion and it **PASSED** unanimously.

**THE JANET RICH NIXON REVOCABLE TRUST (OWNER)
NIXON, LOUIS G., II & TRUDY M. (OWNER)
SANDFORD SURVEYING & ENGINEERING, INC. (APPLICANT) cont.**

Mark Suennen said the Board was given engineered individual stormwater management plans for both lots. The 75 acres in conservation is a non-buildable lot, thus this subdivision would make the property built out under current regulations.

Mark Suennen asked Board to define active and substantial development and substantial completion of the improvements? Does applicant have a proposal?

Ray Shea said the applicant has plans to build on the new lot within the next year. Installation of the driveway apron is usually considered the active and substantial, installation of the foundation for the proposed house is usually considered substantial completion along with any driveway improvements. The applicant indicated that is acceptable to them as did the Board.

This has a driveway permit for Tax Map/Lot # 7/58-3 signed by the Road Agent for Board approval. Conditions Precedent include revised plat, submission of mylar, digital plat data, payment of recording fees and a sixty day deadline of March 24.

Peter Hogan **MOVED** to approve driveways as submitted The Janet Rich Nixon Revocable Trust (Owner) Nixon, Louis G., II & Trudy M. (Owner) Sandford Surveying & Engineering, INC. (Applicant), Location: Lyndeborough Road, Tax Map/Lot #'s 7/58 & 7/58-1, Residential-Agricultural "R-A" District. Mark Suennen seconded the motion and it **PASSED** unanimously.

Peter Hogan **MOVED** to approve the two lot subdivision and lot line adjustment as captioned and modified with the date March 24, 2017 for The Janet Rich Nixon Revocable Trust (Owner) Nixon, Louis G., II & Trudy M. (Owner) Sandford Surveying & Engineering, INC. (Applicant), Location: Lyndeborough Road, Tax Map/Lot #'s 7/58 & 7/58-1, Residential-Agricultural "R-A" District, as complete. Joe Constance seconded the motion and it **PASSED** unanimously.

**MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD
AND/OR/PLANNING BOARD DISCUSSIONS cont.**

6. Letter dated January 19 from Matthew Braucher, Esquire from Craig, Deachman & Amann. Tax Map/Lot #'s 6/45, River Road, Non-Residential Site Plan for Board review and discussion.

Attorney Braucher was present and said the applicant is seeking issuance of an occupancy certificate for Capital Rock. There is a site plan in place for a garage/office. That is what it is being used for. He is asking for an occupancy certificate to be issued and the applicant will sign an agreement to abide by the terms of the current site plan. Jenkins, the prior tenant, signed a similar agreement. This is the property the Board is trying to get reclaimed. The applicant is aware. Capital Rock has been working on an agreement

**MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD
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with Town Counsel Bill Drescher that the reclamation take place. The property is under contract to be sold

and reclamation needs to be done as part of that sale. One of the conditions of the sale is that reclamation be completed. It cannot be done now as the ground is frozen. It is a condition of the sale that the seller reclaims in the spring. If the sale doesn't go through

Capital Rock will continue to rent in the location.

The Chairman said the Board has been trying to get this pit reclaimed for years and the owner is unwilling to do it. He would not grant him rent without reclamation as is his statutory duty.

Louis Rumore was present and said he has been working with all involved to get the agreement signed and in effect to get reclamation done.

The Chairman suggested tie the cost of reclamation into the purchase price then the applicant will be able to do the reclamation and have a Bond with the Town guaranteeing he will reclaim, and then the Board will move forward with the approval. The money to reclaim in the bond form is necessary before the applicant gets the Certificate of Occupancy.

Mark Suennen asked if the applicant was offering the potential of a bond to be in place in the town's name for reclamation in exchange for a Certificate of Occupancy now.

Louis Rumore said he would have to talk to the current owner about that. The insurance reclamation bond is in place. Town Counsel Bill Drescher indicated he is in favor of someone besides the current owner putting up a cash bond with a date certain that it will be complete.

FITZPATRICK, WILLIAM AND ANGELA (OWNER)

LILLA HOLDINGS, LLC (OWNER)

DAVID M. O'HARA & ASSOCIATES (AGENT)

Submission of Application/Public Hearing/Minor Subdivision/Lot Line Adjustment

Location: 26 High Street and 8 Depot Street

Tax Map/Lot #18/1 and #18/41

Commercial "COM" District

**FITZPATRICK, WILLIAM AND ANGELA (OWNER)
LILLA HOLDINGS, LLC (OWNER)
DAVID M. O'HARA & ASSOCIATES (AGENT) cont.**

Michael DePetrillo said he met with the Board previously for a preliminary hearing. He met with the ZBA last week who had no concerns and approved his application for a variance.

Michael DePetrillo said a professional land surveyor/engineer is involved. A tax map scale copy to attach to the tax map is required and expected. A site walk has not been done. There are some outstanding items. March 24 is the due date for the tax map scale copy of the plan, ZBA approval January 17, 2017, should be noted on the plan as a standard Planning Board approval note and lot bounds need to be set prior to recording the plan.

Mark Suennen **MOVED** to approve the subdivision plan subject to the conditions described that will be provided in the Notice of Decision subject to the Conditions Precedent deadline date of March 24, 2017. Joe Constance seconded the motion and it **PASSED** unanimously.

Endorsements:

KARY JENCKS AND F. NOEL SAGNA (OWNER)

Location: Scobie Road

Tax Map/Lot #4/1

Residential-Agricultural "R-A" District

Applicant Kary Jencks has not received this information yet but Code Enforcement Officer Ed Hunter is here to discuss.

The Code Enforcement Officer said this is a kennel that would be granted by Special Exception. The Board can approve as long as the kennel operates in a separate building. Second principal use in R-A zone accessory to the residential use of the property. This is a large building that was owned by St. Anselm's College, used as a monastery, there are 14 bedrooms, two or three bathrooms and a kitchen. It is now several years after the college gave up the building and it is no longer grandfathered for any use. Some of the intent was to have employees stay on the property overnight but for now Ed worked to determine how the property would be used as a shell of a building with an accessory kennel. He is working to determine which Board to send the application to and what can be applied for.

The Chairman said New Boston kennels have primary use residential and secondary use the kennel. The biggest issue is noise that can potentially come out of that. Some kennels have noise limits. The ZBA has to grant Special Exception and send the applicant back to the Planning Board for site plan review of a kennel as a subordinate use at the house. Section 204.4 Objective and Characteristics contains the definition of

accessory and subordinate use and the Boards need to make sure the business is not offensive to abutting neighbors.

The Board agreed. The Board will note if the ZBA grants a Special Exception the business size will be limited so it is still considered an accessory and subordinate to the residence.

Joe Constance said the standards of kennel care could be considered.

The Coordinator suggested a joint meeting with the ZBA. Traffic and road condition were a concern noted at the ZBA meeting.

The Chairman said the ZBA should be looking at the worthiness of a kennel for a Special Exception and if it grants a Special Exception based on their criteria then they can approve it contingent upon a site plan review at the Planning Board and the Planning Board will work with it.

Mark Suennen said if they are going to grant a Special Exception the ZBA should be responsible for defining the limits of accessory and subordinate use such as number of dogs, number of dogs outside at the same time, amount of space for the business and fencing. The Planning Board will address this and noise pollution with the site plan review. The Planning Board will consider if they would like to sit in the audience at the ZBA meeting when this is discussed and will ask the ZBA if they expect any benefit from a Planning Board member attending and the Planning Board will share the notes of this conversation with the ZBA.

David Litwinovich suggested avoiding the application getting ZBA approval without stipulations of what can and cannot be done.

The Code Enforcement Officer will bring this information to the applicant.

MISCELLANEOUS BUSINESS THAT MAY COME BEFORE THE BOARD AND/OR/PLANNING BOARD DISCUSSIONS cont.

6. Letter dated January 19 from Matthew Braucher, Esquire from Craig, Deachman & Amann. Tax Map/Lot #'s 6/45, River Road, Non-Residential Site Plan for Board review and discussion.

The Board would like the pit to be reclaimed. Owner representative Vinnie Iacozzi was present and said the owner plans to do that. He reviewed the history of the location. He said when the town considered purchasing the property there was a different restoration plan. A separate town engineer was hired and changed the plan in 2013 and 2014. Vinnie then retired. Louis Rumore came up with a plan. Then the owner asked Vinnie Iacozzi to work on it again. He met with the Code Enforcement Officer and the Coordinator who recommended filing an amended site plan with the Planning Board once Louis Rumore got financing approved. He is not planning to purchase the entire parcel. Security fencing would probably need to be installed. The map was reviewed. The Open

Space Committee is waiting for this to be approved. Vinnie Iacozzi said the bond stays with the town.

The Coordinator called Hanover Insurance who has the bond and learned the bond is in Mr. Thibeault's name, not Mr. Rumore's.

The Chairman suggested Vinnie Iacozzi determine how much it will cost to reclaim.

Vinnie Iacozzi said it would cost approximately \$30,000-40,000 for himself and Mr. Rumore to reclaim 110 acres once the frost is gone.

Louis Rumore indicated he estimated the cost at \$50,000.

The Chairman suggested Louis Rumore cut \$50,000 from the purchase price and use it to reclaim the property.

Vinnie Iacozzi noted an issue is the bond covers two properties currently.

The Board wants Mr. Thibeault to reclaim and sell the property or sell the property in such a way that the buyer can get a bond to move forward with reclamation. The cost of reclamation needs to be determined.

The Coordinator said the town has Northpoint Engineering who can look at the plan and determine how much it will cost per acre of gravel reclamation per the gravel regulations.

Any Certificate of Occupancy would be contingent upon reclamation; reclamation needs to be done to get the Certificate of Occupancy.

Louis Rumore said he needs a Certificate of Occupancy or an assurance that the Certificate of Occupancy will be issued to close the sale.

A Member stated maybe a Conditional Certificate of Occupancy can be given.

Louis Rumore said that should be sufficient.

The Coordinator said Louis Rumore can work the details out with Town Counsel Bill Drescher as he is already familiar with the situation.

Vinnie Iacozzi said the reclamation is expected to be machine work with stone and loam that will take two weeks.

The Board noted germination is also required. The Board is very interested in seeing this property reclaimed and productive again.

Continued Discussion, re: Master Plan Update

Mark Fougere noted there is no update to report.

Peter Hogan **MOVED** to adjourn at 8:08 p.m. Joe Constance seconded the motion and it **PASSED** unanimously.

Respectfully submitted,
Maralyn Segien, Selectmen's Assistant/Recording Clerk

Approved 04/11/17