

DRAFT
Planning Board
November 20, 2007

Members Present: Barbara Freeman, Chair; Bill Weiler, Vice-Chair; Travis Dezotell; Deane Geddes; Tom Vannatta; Ron Williams; Dick Wright, Alternate Ex-Officio; Ken McWilliams; Advisor.

Mrs. Freeman called the meeting to order at 7:15 p.m. The Board reviewed the minutes of October 16, 2007 and made corrections.

Mr. Weiler made a motion to accept the minutes of October 16, 2007 as corrected. Mr. Dezotell seconded the motion. All in favor.

CASE: 2007-021: Conceptual Lot Line Adjustment – Town of Newbury Lakeside Cemetery – Route 103A – Map/Lot 20-081-279.

Mary Bachelder, Cemetery Commissioner presented the Planning Board with a lot line adjustment plan between Lakeside Cemetery and its two abutters to the west, William P. Annable and Joan Desrosiers & Charles Torrisi. Mrs. Bachelder explained that the Cemetery Commission would like to erect more chain link fencing on the westerly side of the cemetery but first the westerly boundary line needed to be clarified. According to a survey plan prepared by Clayton Platt dated September 27, 2007, the location of the existing fence is up to approximately 8 ft. east of the actual deeded boundary line. As noted on the survey plan, *the leach field for Annable is located on the Cemetery property. There was a lease agreement for this use and this lease has expired. The piping from the cottage to the septic field was removed in September 2007. There are numerous encroachments along the westerly boundary and most of these appear to originate 50 – 60 years ago. Under certain circumstances, unwritten rights for use can evolve over time and the area west of the old cemetery fence may be subject to these unwritten rights.* The encroachments over the boundary line are up to 6 ft. The Cemetery Commission would like to move the existing fence 1 ft. west of its existing location, which is 1 ft. closer to the actual boundary line and transfer the remaining strips of land to the abutters. This would clarify the line and enable the abutters to own the land the encroachments are sitting on. Mrs. Bachelder asked the Board if the map presented this evening would be adequate for the Board's requirements.

Mrs. Freeman advised Mrs. Bachelder that all of the property owners affected are going to have to be involved as co-applicants. The Lot Line Adjustment needs all signatures for the application to be heard by the Planning Board.

Mr. Weiler advised Mrs. Bachelder to notify her surveyor that she needs a survey map and mylar that satisfies all of the requirements for a lot line adjustment for the Newbury Planning Board.

Mrs. Freeman advised Mrs. Bachelder that she first needs to go to the Board of Selectmen to have a warrant article placed on the March 2008 Town Meeting Warrant to authorize the disposition of the strips of land to the abutters. The Planning Board cannot hear or approve the application until the Town's people have given permission to give up the ownership of the strips of land.

Mrs. Bachelder asked if the survey map will be required to show a full and complete survey of all of the lots affected, including the abutters, or just a full survey of the cemetery land.

Mrs. Freeman advised that since the lots of the abutters are getting bigger, the Board would consider a waiver of a complete survey of all lots affected. A formal request for waiver needs to be drafted and submitted with the application for lot line adjustment.

Mrs. Bachelder asked the Board if there is an estimated cost the Commission should budget for or will the Board waive the fees.

Mrs. Freeman advised that the Land Use Clerk can calculate the fees, or they can be waived since the application is for the Town.

Mr. Williams commented that the cost of the lot line adjustment should be shared among all those affected, including the co-applicants since they are receiving more land and will benefit from the survey.

CASE: 2003-001: Major Subdivision - Fieldstone Ridge – Pickman and Sons – land between Gillingham Drive and Old Sutton Road – Open Space Management

Dave Pickman explained to the Board that his development off Gillingham Drive needs to meet the stewardship requirements for mitigation for crossing wetlands and maintaining wetlands, per NH DES rules. Mr. Pickman informed the Board that everyone he has approached does not want to take on this stewardship. They are either too busy or not interested. Before the development can move forward, the State requires a steward. Currently, the Newport Animal Rescue has agreed to take on the stewardship responsibilities, but the State is reluctant to approve their credentials.

Bob Stewart, RCS Designs, explained that the rules have changed within the last few years regarding implementing a conservation easement. Typically this type of easement would be overseen by Fish & Game, SPNHF, Ausbon Sargent Land Trust or Conservation Commissions. Since the tax laws have changed, all of the traditional organizations are overwhelmed as a result of meeting federal requirements. The Newport Animal Rescue still may hold up as an easement holder when State reviews the individuals' experience. If this land is placed in a conservation easement, it virtually becomes public property never to be developed. If it is not placed in a conservation easement, it will become common land and open space for the residents of the development and may be developed per their wishes and the Town's regulations.

Mrs. Freeman stated that she had called Deb Stanley about this property and she said her staff person got a call many months ago. There was an appointment scheduled to view the land, but was later cancelled by the applicant. It is a long process to get the Ausbon Sargent Land Trust to take on a stewardship, but the first step is a site visit. Their fee is going to go up to \$18,000 in order to accept a stewardship and to be able to pay someone to administer the monitoring. Mrs. Freeman commented that it seems as though Mr. Pickman needs to start the process and not cancel the visit. She stated that the Town is not in a position to take on the role of a stewardship.

Mr. Weiler explained that the Newbury Conservation Commission cannot take this role on because it cannot make a commitment for future Commission members. In order to properly monitor the land, the steward needs to walk the land almost on a daily basis to make sure there are no encroachments.

Mr. Pickman stated that the only way out of this dilemma is to pay a fee to the State and buy out the stewardship requirement.

Mr. Stewart described this piece of land as very unique in that it connects to a lot of other wetlands and open space. It is a very valuable for conservation easement.

Mrs. Freeman asked Mr. Weiler if he thought the Conservation Commission would take it on if they received payment for hiring someone to monitor the land.

Mr. Weiler stated the Conservation Commission would not be interested in taking this on because the Commission and the person monitoring has to be committed to keep this up and going, and the current Commission cannot speak for a future Commission.

Mr. Pickman commented that there are reports that have to be filled out and submitted to the State each year. Therefore, the stewardship cannot be dropped.

Mr. Weiler commented that additionally, there needs to be a back-up easement holder.

Mr. Stewart stated that there is no back-up easement holder at this time, but the deeds state that there has to be one in a certain amount of time.

Mr. Wright commented that although it is a good idea to place this land in a conservation easement, it is not a good idea for the Town to become involved in the stewardship. That would require creating another branch of Town government to oversee this project and probably others that would come forth in the future.

Mrs. Freeman asked Mr. Stewart what happens if there is an encroachment on the easement land that is under stewardship by the Town.

Mr. Stewart informed the Board that Laurie Summer, head of the Compensation Mitigation Program at the Wetlands Bureau is willing to meet with the Board of

Selectmen and/or the Planning Board and answer any questions or concerns the Town may have.

Mr. Wright suggested that perhaps Mr. Pickman could find a qualified organization to take on the stewardship temporarily until a permanent organization has less of a workload.

Mrs. Freeman asked Mr. Weiler if he thought the Newbury Conservation Commission would take on the stewardship temporarily.

Mr. Weiler commented that he did not think the State would go along with such an arrangement. The Commission has already discussed this issue and decided that a volunteer government body cannot take it on and do a responsible job forever.

Mrs. Freeman commented that if the Conservation Commission has a consultant, then the Commission would have the ability.

Mr. Weiler commented that aside from the will to continue the stewardship, there is also an issue of legal authority.

Mr. Wright recused himself from the Board for the next hearing.

CASE: 1997-017: Final Site Plan Review – David Long – Captain’s 1st Choice – 546 Route 103 – Map/Lot 43-797-526.

Notice is hereby given that the Planning Board will receive submission of an application from David Long for a Final Hearing for a Site Plan Review at 546 Route 103, Tax Map/Lot 43-797-526 on Tuesday, November 20, 2007 at 8:00 p.m. in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the accepted application will commence at the same meeting.

The Board reviewed the application for completeness. The following waivers were requested:

10.7.5

Boundary Survey – This is an existing business and structure situated on 12.5 +/- acres. More importantly the site exists with no new proposed grades, drainage, roads, drives. This is the same site as reviewed by the board in past applications, including past site plans. The Board was relying on the data that is depicted on this site plan.

10.7.10

Grades & Topographic – This is an existing business and structure situated on 12.5 +/- acres. More importantly the site exists with no new proposed grades, drainage roads, drives. This is the same site as reviewed by the Board in the past applications. Including past site plans the Board was relying non the data that is depicted on this site plan.

10.7.11

Streams, Wetlands, marshes, lakes or ponds 200 ft. beyond boundary – More importantly the site is as it exists and with the proposed changes meets all set back requirements with no new proposed grades, drainage roads, drives. This is the same site as reviewed by the Board in past applications. Including past site plans the Board was relying on the data that is depicted on this site plan.

10.9

Drainage Plan – This is an existing business situated on 12.5 +/- acres. The total area affected by drainage onsite is 2.2 acres +/- . This area is comprised of Hermon soil (Hydraulic Soil Group A) with high infiltration rates. The site slopes to the south west of the property at approximately a 2-5% grade. There are no defined runoffs through the excavation area except for the stream along the west side. The existing runoff is by sheet flow. The proposed and existing structure meets all current setback requirements. Although the parking area is at a slower infiltration rate, the total pre and post-runoff is unchanged at 6.0 C.F.S. The size of the culvert under the drive is the same size as the culvert under State Route 103 upslope, which is 15 inches.

Mr. Williams made a motion to approve the request for a waiver to 10.7.5, 10.7.10, 10.7.11, and 10.9 as stated above. Mr. Dezotell seconded the motion. All in favor.

Mr. Dezotell made a motion to accept the application as complete. Mr. Geddes seconded the motion. All in favor.

Mr. Stewart explained that as a result of the preliminary hearing on October 16, 2007, the presented plans show the following details:

1. parking against the building that has been moved back as discussed
2. all of the outdoor lighting is shown on the plan
3. the display area is now shown as fenced in
4. the waterline is clearly shown
5. the stairway to the storage area is shown
6. propane, oil tanks and underground utility are shown
7. placement of handicap parking and handicap signs are shown
8. gate across the driveway is shown.

Mr. Stewart explained that he reviewed the minutes of October 16, 2007 and incorporated the changes in addition to making clarifications of his own on one complete site plan.

There were no questions from the Board. Mrs. Freeman opened the hearing to the public.

Dick Wright, abutter, commented that he sees this site plan as a very favorable alteration to this project. When the building was initially built, there were comments about the building being very plain. A front porch is very appealing and functional. The porch will give the building the aesthetics that it was missing when it was first built. The proposed use is much less impacting with less traffic than an auction hall. Mr. Wright stated he has no opposition to the application.

There was no further comment from the public. Mrs. Freeman closed the meeting to the public and the Board began deliberations.

Mr. Weiler commented that the Board may have missed something. He asked if the Board members understand that this site plan review includes additional uses such as a restaurant and offices when it was originally approved with only retail trade and as an auction hall.

Mr. Stewart explained that those uses were on all of the applications in order to cover the use of serving food. When the business was run as a function/auction hall, there was food such as hot dogs, chips and sodas served.

Mr. Weiler commented that the casual service of food is understandable under the umbrella of a function hall.

Mrs. Freeman asked Mr. Long if he intends to run a restaurant or rent out office space from the building.

Mr. Long stated he does not intend to operate a restaurant out of the building, but does not want to be denied serving accessory food. He stated that he does not intend to rent out the building as office space, but he does have an office in the building for his own use.

Mrs. Freeman ruled that 4.2.6.3, Office Space and 4.2.6.7, Restaurant will be removed from the application and consideration for site plan approval. She advised Mr. Long that small accessory food service and a manager's office is allowed in the building by right. He does not need to seek approval for those specific uses.

Mr. Dezotell made a motion to approve the application as amended to remove the categories Use Section 4.2.6.3 and 4.2.6.7. Mr. Geddes seconded the motion. Discussion followed.

Mr. Weiler stated that Mr. Dezotell's motion should also include reference to what 4.2.6.3 and 4.2.6.7 refers to since zoning amendments and the article numbers are subject to change. The Board agreed with Mr. Weiler.

Mr. Dezotell amended his motion to state: to approve the application as amended to remove the categories Use Section 4.2.6.3 Office Space and 4.2.6.7 Restaurant. Mr. Geddes seconded the motion as amended. All in favor.

The Board signed two copies of the Site Plan Review plat and gave one to Mr. Stewart and Mr. Long and kept one for the Planning Board file.

CASE: Adm1-071: Regional Impact – Town of Bradford - Dunkin' Donuts – Bradford Main Street

Mrs. Freeman advised the Board that the Bradford Planning Board meeting minutes were sent to her and reflect the Bradford Planning Board's decision to consider the proposed Dunkin' Donuts on Main Street in Bradford as a regional impact application.

CASE: Code-038: Storm Water Management Ordinance

Charlie Hirshberg and the Board reviewed a draft of the proposed Article XXI Storm Water Management. Mr. Hirshberg explained that he and the SWM Committee sat down and incorporated the Board's comments into the document. He said that they tried to keep it simple.

Mr. Hirshberg explained that another goal for the SWM Committee was to come up with a simple layman's guide that talks about Best Management Practices. He presented a booklet; Guide to Erosion Control and Storm Water Management for Homeowners and Contractors that provides visual aids illustrates Best Management Practices. He emphasized that this is just a guide, and that he is not attempting to write a law. The guideline doesn't mean you can't do something differently; it is just a guide to help accomplish a goal without creating erosion problems.

Mr. Dezotell commented that he is concerned with the reasonableness of implementation of these regulations. He clarified that he is concerned that if a project starts and is in need of a site review by the building inspector on Thursday. The Building Inspector is only available on Mondays and Wednesday, so now this site and its contractors are at a standstill for five days until the Building Inspector returns. If there is a bad storm over the weekend, it could mean disaster.

Mr. Hirshberg agreed that the implementation is a concern. There is a clause written into the ordinance giving the Board of Selectmen the authority to charge fees for the inspections, thereby compensating the Town for the addition time required by the Building Inspector.

Mr. Weiler suggested that the Town Counsel review the plan before the final draft to the public.

Mr. McWilliams advised the Board that any further changes would have to be submitted by the December 4, 2007 worksession in order to be read for the first public hearing.

The sense of the Board was that this ordinance is a good concept.

The Board was asked to take home the Building Code Amendments and the Zoning Amendments for review and comment at the next meeting.

CASE: Adm1-061: Masterplan – Chapter X – Implementation Plan

Mr. Weiler asked Mr. McWilliams if this Chapter is a State mandate.

Mr. McWilliams informed Mr. Weiler that this Chapter is not a State mandate. It is only suggested in the RSA's. The only two chapters required by State mandate is the vision chapter and the land use chapter.

Mr. Dezotell made a motion to adjourn. Mr. Williams seconded the motion. All in favor. Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Linda Plunkett