

**Planning Board**  
**March 20, 2007**  
Approved April 17, 2007

**Members Present: Bill Weiler, Vice-Chair; Deane Geddes; Thomas Vannatta; Ron Williams; Ken McWilliams, Advisor**

Vice-Chair Weiler called the meeting to order at 7:10 p.m.

Mr. Weiler welcomed Thomas Vannatta and Deane Geddes as newly elected full members to the Newbury Planning Board.

**CASE: ADM1 – 010: Election of Planning Board Officers.**

Mr. Vannatta nominated Barbara Freeman as Chair and Bill Weiler as Vice-Chair for the ensuing year.

Mr. Williams made a motion that the nominations for Mrs. Freeman as Chair and Mr. Weiler as Vice-Chair be accepted. Mr. Geddes seconded the motion. All in favor.

**MINUTES**

The Board reviewed the minutes of February 20, 2007 and made corrections.

Mr. Williams made a motion to approve the minutes of February 20, 2007 as amended. Mr. Geddes seconded the motion. All in favor.

**CASE: 2006 – 006: John Feins - Harborview Regional Impact Subdivision in Sutton**

The Board reviewed the March 9, 2007 letter drafted by Mrs. Freeman to Dan Sundquist, Sutton Planning Board Chair.

Mr. Weiler commented that he is not sure if this letter has been sent to Mr. Sundquist yet. If it has not been sent, Mr. Williams suggested a change in wording from 'For your information I include these below:' to 'For your information these are included below:'

Mr. Vannatta asked what the status of this project is and why was this letter precipitated.

Mr. McWilliams explained that the Sutton Planning Board declared this subdivision a potential regional impact subdivision and invited input from Newbury and New London. Both communities have commented back. This March 9, 2007 draft is a follow-up to a previously written letter from the Newbury Planning Board to the Sutton Planning Board.

**CASE: 2007 - 009: Conceptual - Carl Christiansen – Minor Subdivision Proctor and Newell Road – Tax Map Lot #35-662-056**

Mr. Christiansen presented a survey map prepared by Tom Dombrowski, Surveyor. He explained that his plan is to subdivide 50 acres into three lots. Lot 1 is proposed to be 11+ acres with 472.6 ft. of road frontage on Newell Road, Lot 2 is proposed to be 2+ acres with 241 ft. of road frontage on Newell Road, and Lot 3 is proposed to be 37+ acres with 300 ft. of road frontage on Proctor Road. He also stated that he would like to sell Lots 2 and 3 and keep Lot 1 to build a new home for himself.

Mr. Weiler noted that the survey plat does not show the entire 50 acres, only the lower portion where the new lines are being drawn.

Mr. Christiansen speculated that the upper portion of the lot was probably left off because it would not fit on the plat with the scale of 1 in. = 100 ft.

Mr. McWilliams stated that leaving the upper portion of the lot off the survey plat does not meet Planning Board requirements and would need a waiver in order to be approved as presented. He suggested that the orientation of the plat be turned to portrait instead of landscape. That alteration of orientation would probably enable the entire lot to fit on the plat and satisfy the scale of 1 in. = 100 ft. as required in the Newbury subdivision regulations.

Mr. Christiansen asked for clarification of the density report.

Mr. Weiler explained that the Board needs to know about the steep slopes, deer wintering yards and wetlands on the lot. The surveyor needs to note on the plat where those areas are and how much area is involved.

Mr. Christiansen commented that there are five acres in the back that are steep but no wetlands. He explained that about 30 years ago Proctor Road was privately owned by him. In the early 1970's the town took over responsibility for maintaining Proctor Road as a result of a Town Meeting vote contingent upon Mr. Christiansen making improvements to the road as recommended by Harold Folsom, 1971 Road Agent. The deeded easement to the Town is only half way up Proctor Road; therefore it does not count as a Public Easement for this conceptual application.

The Board reviewed the density requirement worksheet and determined that 13 lots is the maximum number of lots this lot can support.

Mr. Weiler advised Mr. Christiansen that it looks as though this conceptual subdivision is acceptable to move forward. He suggested that Mr. Christiansen instruct his surveyor to:

1. Pick up a set of current zoning and subdivision regulations to make sure the application is in compliance with any new changes.
2. Redraw the plat so that the total parcel with all three proposed lots are shown on the same plat; and

3. Show the building envelopes for each lot on the plat.
4. Deeds and plat should clearly indicate the public right of way boundaries.

**CASE: 2007-006 – Continued Final Review – George Gordon – Annexation – Lakewood Manor Road and Route 103 – Map 19 Lots 613-412, 590-386, 595-371**

*Notice is hereby given that the Planning Board will receive submission of an application for a Final Hearing for a Subdivision/Annexation and Lot Merger from George M. Gordon, for property located off Lakewood Manor Road and Route 103, Newbury, NH Tax Map 19-613-412, 19-590-386 and 19-595-371 on February 20, 2007 at 8:30 p.m. in the Town Office Building at 938 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same meeting. Copies of the plans are available for public review at the Town Office Building during regular business hours.*

Mr. Weiler read the above notice and opened the continued hearing. The Board reviewed the amended plat prepared by Wayne McCutcheon, Surveyor and noted that the requested information has been added on to the plat. The table that explains the parcel sizes before and after annexation was added on to the plat, and tax map and lot numbers were corrected.

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

Mr. Gordon explained that the end result of this subdivision/annexation is that there will be one less lot and the two remaining lots will be less non-conforming. More specifically, Parcel B, 0.66 acres, will be annexed to lot 19-613-412, 0.23 acres, to create one parcel of .89 acres identified on the tax map 19 as lot 613-412. Also, Parcel D, 0.23 acres will be annexed to lot 19-590-386, 0.36 acres, to create one parcel of .59 acres identified on the tax map 19 as lot 590-386.

Mr. Weiler opened the meeting up to the public.

Lynnette Ferguson stated that she would like to clarify where her property is in relation to the survey map presented. She explained that her abutting lot is labeled as property #3, and she is not on the abutter list nor was she notified of this hearing.

Mr. Gordon commented that he was not aware that Mrs. Ferguson had not been notified. There was an additional abutter, #29 that had not been notified of the first hearing, but was notified of this continued hearing.

The Board noted that the abutter list submitted with the application has not been amended to reflect the addition of abutter #29. Abutter # 3, Lynnette Ferguson, and abutter #29, Jeffrey Fogel, are not listed on the list of abutters. The Board examined the list of abutters referenced on the plat and agreed that the names, addresses and tax map lot

numbers should be identified on each individual lot on the plat instead of being referenced in chart form.

Mrs. Ferguson expressed concern to the Board for the protection of her well rights. She informed the Board that she has a permit for a well that is on abutting lot number 19-617-416. Due to the size of the lots, she was concerned that Mr. Gordon may construct something that will compromise her use of her well site if setbacks are not protected.

Mr. Weiler commented that the Building Inspector should address and protect Mrs. Ferguson's concern for her well if Mr. Gordon was ever to apply for a building permit.

Mr. Weiler stated that before the Board can sign the final mylar, Mr. Gordon needs to properly identify all of the abutters by name, address and tax map lot number on each individual lot on the plat.

Sharon Kindick asked Mr. Gordon why he is subdividing/annexing these lots.

Mr. Gordon explained that moving these lot lines around makes the back lot more accessible from Lakewood Manor Road. Due to the terrain, there may be some need for earthwork in order for the larger lot to support a house. He commented that his plan is to give the lots to his children, and they can build houses if they choose.

There were not further questions from the public. Mr. Weiler closed the hearing to public input.

Mr. Williams made a motion that the annexation/subdivision be approved with the condition precedent to correcting the plan by adding the abutter's names, addresses and tax map lot numbers on each lot. Mr. Geddes seconded the motion. All in favor.

#### **CASE: ADM1 – 061: MASTERPLAN**

Mr. McWilliams handed out copies of the "Housing and School Enrollment in New Hampshire: An Expanded View" study which is the document used to research the data in the Community Characteristics chapter of the Masterplan. This study factually supports the theory of a potential future decrease in school enrollment.

#### **CASE: 2007-003: Preliminary Review – Mary Webb – Major Subdivision – Newell Road and West Road – Map 36 Lot 658-426.**

*Notice is hereby given that the Planning Board will receive submission on an application for a Preliminary Hearing for a Major Subdivision from Mary Webb, for property located off Newell Road and West Road, Newbury, NH Tax Map 36-658-426 on Tuesday February 20, 2007, at 9:00 p.m. in the Town Office Building at 927 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the*

*application will commence at the same meeting. Copies of the plans are available for public review at the Town Office Building during regular business hours.*

Mr. Weiler read the above notice and opened the continued hearing. Robert Stewart, RCS Designs was subcontracted by David Eckman to represent Mary Webb for this hearing.

Mr. Weiler reviewed the three issues that remain to be satisfied in order to accept the application as complete.

1. Fire Protection Plan
2. Sign-off sheets
  - a. Highway Dept
  - b. Fire Dept
  - c. Police Dept
3. A contour map with flow arrows indicating the directional flow.

Mr. Weiler noted that a Fire Protection Plan letter was received from David Eckman and all of the required sign-off sheets were present. Due to the lack of a contour map with flow arrows, he asked Mr. Stewart if he is familiar with what Mr. Eckman did about the flow arrows on the plan.

Mr. Stewart stated that it is his understanding that a waiver from the drainage plan was requested because there are no internal roads in this proposed subdivision. Therefore, the applicant will not be altering any of the land as it exists. He pointed out that the Board granted a waiver from Article 9.10 and 9.11 of the Newbury Subdivision Regulations regarding drainage plans and subsequently asked for a contour map with flow arrows in lieu of a drainage plan. Therefore, the waiver was not contingent upon the flow arrows.

Mr. Weiler asked the Board if they wanted to drop the requirement of a contour map with flow arrows indicating the directional flow of surface water and continue with the hearing or uphold Mr. Bachelder's request noted at the February 20, 2007 preliminary hearing for a contour map with flow arrows before continuing the hearing.

Mr. Vannatta commented that if the drainage plan was waived and the applicant was asked for a contour map with flow arrows in its place, then it should be provided.

Mr. Weiler commented that when the Board was discussing elevations with Mr. Eckman at the February 20, 2007 hearing, Mr. Eckman stated that there is a difference in elevation of 26 ft. over a goodly distance. Mr. Weiler commented that plans or arrows are not going to show much drainage anyway.

Mr. Williams corrected Mr. Eckman's 26 ft. change in elevation to a more accurate calculation of 30 ft. He commented that 30 ft. is a small amount of slope over 450 ft. which averages less than a 9% slope.

Mr. Weiler reiterated his question does the Board want to continue to make the contour map with flow arrows a requirement for acceptance of this application as complete.

Mr. Williams asked Mr. Stewart if the culverts under Newell Road are existing as shown on the plan.

Mr. Stewart confirmed that they are existing culverts.

Mr. Williams commented that both of the culverts will be receiving more volume of water because of the driveways coming down to Newell Road. He asked Mr. Stewart if there plans to upgrade the culverts going under Newell Road.

Mr. Stewart said there are no plans to upgrade the culverts going under Newell Road. The Road Agent has made a site review and is aware of the proposed driveway locations. He did not address the upgrading of the culverts as an issue of concern.

Mr. Weiler commented that he expressed concern for the additional water leaving the property per the minutes of February 20, 2007.

‘Mr. Weiler advised Mr. Eckman that the plan needs to show how the drainage on the property is going to flow and ensure the Board that no more water is going to leave the property after development.’

‘Mr. Eckman explained that there are no new roads proposed for this subdivision, only driveways. All of the proposed house lots have existing road frontage on existing roads. The developer will not be doing an earth moving on this property prior to sale.’

Mr. Stewart commented that not all of the water will run toward the road. For example, the proposed driveway for Lot 5 gets split up. Half of the driveway slopes toward the road and half slopes toward the house. He stated that it would be hard to quantify the storm water run-off because the grade and terrain varies.

Mr. Vannatta commented that another factor to consider is the surface material of the driveway. The run-off from a paved driveway will behave differently than from a gravel driveway.

Mr. Weiler commented that the driveway run-off issue is really the province of the driveway regulations. He stated that the driveway regulations are not yet complete and the Board should drop this issue. The contour map with flow arrows was Mr. Bachelder’s request and he is no longer on the Board, so does the Board want to enforce his request.

Mr. Geddes commented that Mr. Eckman was asked to modify three items. In lieu of a drainage plan, Mr. Eckman agreed to submit the contour map with flow arrows. Mr. Geddes stated that he thought Mr. Bachelder’s request was a wise suggestion and the Board should require the flow arrows.

Mr. Williams commented that the topo lines show where the drainage will go. He stated that he is more concerned with the culverts under Newell Road.

Mr. Weiler commented that as driveways come to be built, they will be addressed by the driveway regulations and are currently addressed by the Road Agent.

Mr. Williams stated that there is a 10% - 12% grade on some of the driveways. The plan is only a suggestion of where the driveways could go. Since all of the other areas are undisturbed, there will be an insignificant amount of flow.

Mr. Weiler made a ruling that the request for a contour map with flow arrows will be a continuation after the acceptance that the application is complete. He reminded the Board and Mr. Stewart that this is still only a preliminary review, and the Board is not close to deciding the subdivision approval.

Mr. Vannatta made a motion to accept the application as complete contingent upon submission of a contour map with flow arrows. Mr. Geddes seconded the motion. All in favor.

Mr. Stewart reviewed the Density Report on page 7 of Mary Webb's application packet. According to the density calculations, this 37.72-acre parcel contains 26.65 acres of buildable area with a density adjustment factor of 1.5 for a substandard access road. The estimated maximum density permitted for development on this parcel is 8 units. Mrs. Webb is proposing 6 units. The buildable areas for each lot are broken down on page 8 of the application packet. The topographic map was done in the field, and the map has been submitted as required. The soil type was interpolated from the Merrimack and Belknap Counties Soil Survey with two different soil types identified. There were moderately drained and well-drained soils found, both being good for septic system needs. The locations of the test pits and perk rates for all of the lots are shown on the soil map. There are no road profiles and cross sections because there are no internal road plans. There are grade plans on the driveways submitted with the application. The Infrastructure Impact Report is documented on page 9 of the application packet. Accesses to the subdivision are existing paved, town roads for all three lots. The Environmental Impact Report is documented on page 10 of the application packet. The subdivision is not located within an area designated by FEMA as a flood hazard area. The Declaration of Covenants and Restrictions is on page 13 of the application packet in draft form only. The final form will be provided prior to final review of the application for subdivision. The approach to this subdivision is meant to protect and preserve the integrity of the land and stone walls as well as the aesthetic value of the neighborhood. The covenants and restrictions are also meant to promote large homes with a minimum of 2,500 sq. ft. of heated living space. There were some clauses in this draft that were inadvertently inserted, and they will be removed prior to final submission. Mrs. Webb, applicant, has also placed additional restrictions on the lot including a 200 ft. no cut buffer along the public right of way so that the houses will not be visible from the road. This restriction is self-imposing by the developer to keep the aesthetic value of the neighborhood.

Mr. Weiler commented that the Planning Board does not have to take responsibility to enforce the 200 ft. no-cut buffer zone since that is not in our subdivision regulations.

Mr. McWilliams stated that any additional restrictions or covenants pertaining to setbacks should be incorporated in the deed and should be noted on the recording plat in order to keep the information consistent between the two legal references.

Mr. Weiler stated that the recording plat will have to show the 200 ft. no-cut setback buffer and the building envelopes.

Mr. Stewart stated that he will make sure the no-cut restriction is identified in the deed covenants and restrictions and on the plat. He informed the Board that the deeryard assessment was done this past summer, but it does not qualify as a high quality deeryard. It is identified on the plat.

Mr. Weiler addressed the issue of fire protection to the Board members. He asked for the Board members to think about the proposed method of fire protection for this development. According to a March 19, 2007 letter to the Board from David Eckman, Engineer for Mrs. Webb, the Fire Chief has requested that all residential homes constructed in the proposed subdivision have a residential sprinkler system installed in order to satisfy the fire protection requirement.

Mr. Weiler stated that this is the first time that the Board has seen a requirement for a sprinkler system to satisfy fire protection in lieu of the developer providing a cistern or dry hydrant. He commented that this is a very expensive requirement to place on the homeowner and was concerned with singling out a few people to bear this cost.

Mr. Weiler informed the Board that Henry Thomas, Fire Chief, said that he could not find an adequate pond to tap for a dry hydrant. He did say something about Mr. Eckman working on a project on Brown Road that may be able to tie in to this subdivision for fire protection possibilities such as a joint water supply.

Mr. McWilliams commented that this option passes the responsibility of the fire protection from the developer onto the homeowner.

Mr. Stewart commented that any method of fire protection is going to be passed onto the homeowner in some way because the greater the expenses of developing the lots, the greater the cost of the lots. Sprinkler systems are the best and most efficient way to make sure these homes are protected.

Mr. Weiler commented that the lots will be sold at what the market will bear for land only.

Mr. McWilliams commented that a cistern would benefit the homes in this subdivision and the neighborhood. A sprinkler system only benefits that one house.



Mr. Stewart commented that the subdivision require the developer to provide a method of fire protection for their development. The fire chief knows what fire suppression units can do and where the ponds are located. The best solution for this situation should be left up to the fire chief.

Mr. Weiler stated that one of the issues the Planning Board has to consider is the unreasonable expense that is now being placed on the homeowner if this method of fire protection is approved. He asked the Board members to think about this issue over the next month and be ready to discuss it at the next meeting.

Mr. Williams asked Mr. Stewart to pass along to Mr. Eckman to clarify his numbers by labeling them with the appropriate means of measurement. Throughout the application there are tables of numbers but no indication if those numbers represent square feet, square yards, acres, etc.

Mr. Geddes asked Mr. Stewart what the green outlines on each lot identified.

Mr. Stewart stated that the green lines were the setback boundaries from lot lines, wetland, and buffer areas.

Mr. Weiler explained to Mr. Stewart that after the preliminary hearing tonight there will be a final review. The preliminary hearing notices the abutters and the public prior to the final hearing in order to bring them in at the earliest opportunity to ask questions and make comments before the approval hearing.

Mr. Weiler encouraged the Board members to drive by the subdivision for a site review and read the materials thoroughly.

Mr. Geddes made a motion to continue the hearing to April 17, 2007 at 8:00 p.m. Mr. Williams seconded the motion. All in favor.

**CASE: 1997-017: David and Rhonda Long – White Star Auction Hall – Route 103**

Mr. Weiler informed the Board that on December 12, 2006 Mr. Long filed for a building permit to build a porch and green house. The building permit has not yet been approved. At the March 7, 2006 meeting, the Planning Board discussed the need for Mr. Long to come to the Planning Board to revise his site plan approval. On March 8, 2006, Lynn Long (aka Rhonda Long) was advised that they need to submit a site plan review application for the changes in activity. The Longs have submitted a plan, which does not meet the criteria of a site plan review application. The submitted plan is a copy of the previously approved plan with alterations drawn on it to show the addition of a porch and a green house, and there is a list of potential items to sell retail. Mr. Weiler stated that the Building Inspector should deny the building permit application until the site plan review is amended.

**CASE: 2006-006: John Feins – Harborview Regional Impact Subdivision in Sutton**

Mr. Weiler informed the Board that a mass of documentation and materials have been received from the Sutton Planning Board regarding the Harborview Subdivision for review by the Newbury Planning Board. The lot sizes are listed by soil types, there are road profiles, and a plan that shows the access through New London. The applicant has not indicated if they intend to meet any of the off-site requirements as requested by the Town of Newbury. All of the information received on this subdivision will be available at the Newbury Town Office upon request.

Mr. Geddes made a motion to adjourn. Mr. Vannatta seconded the motion. All in favor. Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Linda Plunkett