

Planning Board
May 15, 2007

Members Present: Barbara Freeman, Chair; Bill Weiler, Vice-Chair; Deane Geddes; Tom Vannatta; Richard Wright, Acting Ex-Officio; Ken McWilliams, Advisor.

Mrs. Freeman called the meeting to order at 7:00 p.m.

CASE: 1994-002: Krummel – Lot Line Question - Gillingham Drive

Roger Rodewald was present to represent J. William Krummel and Linda Krummel Minerva. Mr. Rodewald explained that he has spoken with the Assessor on behalf of the Krummel's predicament with their lot lines, and the Assessor suggested that Mr. Rodewald meet with the Planning Board to try to sort out the confusion between the deeded parcels, the lot lines, and the Assessor's maps. Mr. Rodewald presented a survey plat, deeds and tax cards on all three parcels. According to the deeds, there are two tracts of land. The tax map has always shown these tracts as one lot. It seems as though this issue has been going on for a long time.

Mrs. Freeman asked Mr. Rodewald why he has come to the Planning Board.

Mr. Rodewald explained that the Krummels would like the tax map and the assessing records to reflect two separate lots instead of two tracts on one lot. Currently, all of the property is being taxed to Mr. Krummel. There are two lots with separate deeds, which have been deeded to Linda Krummel Minerva. After meeting with the Assessor, he was advised to consult with the Planning Board.

Mr. Weiler informed the Board that on May 16, 1995, the Planning Board reviewed all of these records, and it was clearly stated in the minutes of that meeting that there are two lots. Mr. Weiler stated that Mr. Krummel is trying to divide up the cottages for estate purposes. It has already been determined by the Planning Board that there are two separate lots of record. The assessing records have never been adjusted to reflect that separation.

Mrs. Freeman advised Mr. Rodewald that there is no issue because the deeds and survey reflect the property correctly.

Mr. McWilliams advised Mr. Rodewald to share with the Assessor the Planning Board Minutes of May 16, 1995, and that should resolve the issue.

Mr. Rodewald asked if the Board would be willing to write a letter to the Assessor explaining the findings of the Board on May 16, 1995.

Mr. Weiler stated that the Assessor should have recorded the 1996 deed transfer from J. William Krummel to Linda Krummel Minerva at that time. Since it was not broken out

in 1996, the current Assessor should be able to update and assess the property properly based on the deeds and the survey on file.

CASE: 1993-007: Mary Webb and Pam Gentile – Route 103 – Conceptual Site Plan Review

Pam Gentile informed the Board that she and Mary Webb are considering leasing out the Sweet Patch Bakery site to Jason Snyder, President of 420 Main Street, Inc. for use as a catering business. She stated that Mr. Snyder was present to discuss the proposed change.

Mr. Snyder explained to the Board that he would like to use the Sweet Patch Bakery site for a commissary kitchen for catering and storage for his business, 420 Main Street, Inc. There would be no cash register business activity, and there are no plans to operate as a bakery until the fall/winter season. It will be a minimal change of use, and only the back half of the building will be used. The seating area will be vacant for now. The kitchen will be slightly renovated to accommodate a fire suppression system above the range, which may require some plumbing work. New kitchen equipment will be installed. Everything will be inspected by the State and is guaranteed to be up to current safety codes. There will be less traffic, and the hours of business activity are estimated to be 8:00 a.m. – 5:00 p.m. at the most. When the bakery activity is ready to get off the ground, it will be smaller than the Sweet Patch operations and will deal directly with the public.

Mrs. Webb stated that the bakery has been unoccupied for four years.

Mr. Weiler commented that just because it was not used does not revoke the previous site plan approval.

Mrs. Freeman asked for a sense of the Board as to whether or not Mr. Snyder needs a Site Plan Review approval.

Mr. McWilliams commented that he does not see any need to go through a site plan review hearing.

Mrs. Freeman advised Mr. Snyder that he is allowed to erect a new sign as long as it is the same size as the current sign approval.

Sense of the Board was that Mr. Snyder does not need a site plan review approval for the use described.

CASE: 1994-002: Krummel – Lot Line Question – Gillingham Drive

Discussion continued.

Mr. Weiler reminded the Board that what the Krummels wanted to do was to split up the ownership of the lots and cottages, and the Planning Board told them they could not do it. Recently, the Planning Board received an inquiry from Birch Lane Lodges to convert their property into condominium ownership. Mr. Weiler asked if the Krummel's could annex all of the lots and then come back to the Planning Board for a condominium conversion application.

Mrs. Freeman asked Mr. Weiler for an explanation as to why Mr. Weiler thinks the Krummel's would want to convert their property into a condominium ownership.

Mr. Weiler commented that he does not know why, it is just a question and perhaps another way to achieve their objectives of ownership.

Sense of the Board was that this issue is complicated and needs more research.

DISCUSSION: Ex-OFFICIO

Selectman Wright commented that he and Selectman Powell were planning to co-host as ex-officio.

Mrs. Freeman informed Mr. Wright that the Board of Selectmen must vote on one member of their Board to be the ex-officio. She recognized that being the ex-officio is a time-consuming commitment but emphasized how welcomed and important the presence of an ex-officio is to the Planning Board and to the Town.

Selectman Wright said that he will discuss the position with Selectman Powell, and they will resolve the issue.

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

Mr. Christiansen presented a plan to the Planning Board for the subdivision of his 50 +/- acre lot into three lots of record, Lot 1 to be 11 acres; Lot 2 to be 2 acres; and Lot 3 to be 37 acres, approximately. The original plan he presented to the Planning Board in March 2007 did not show the complete boundary of the entire lot of 50 +/- acres. The lot was reformatted in a portrait format to fit on one plat with a scale of 1 in. = 100 ft.

Sense of the Board was that the plat appears adequate to move forward for a final application for subdivision. Mr. Christiansen was advised to contact Ms. MacDonald for guidance to start the final application and to follow the guidelines in the regulations for a simple subdivision.

CASE: 2007-003: Continued 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 of 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 036-658-426 on **Tuesday, February 20, 2007, at 9:00 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 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.*

Mrs. Freeman read the above public notice and stated that the application has been accepted as complete; however, the issue of fire protection was still unresolved.

David Eckman of Eckman Engineering, Inc., and Henry Thomas, Jr., Newbury Fire Chief, were present to discuss this application. Mr. Eckman commented that at the last meeting the Board expressed preference for an underground cistern to address fire protection instead of sprinkler systems installed in the individual houses as preferred by the developer, Mrs. Webb. He pointed out that there has never been a fatality due to fire in a building that has a property installed sprinkler system.

Mrs. Freeman explained that the sense of the Board is that it is not right to put the expense of installing a sprinkler system onto the homeowner.

Mr. Eckman stated that Mrs. Webb would prefer not to install an underground cistern, and Chief Thomas was present to discuss the issue and answer any questions the Board may have regarding fire protection from the perspective of a fire fighting official. Mr. Eckman commented that he wanted to make sure that the issue is agreed upon before he continues with the planning and designing process.

Chief Thomas explained that he originally thought there would be no problem resolving fire protection because of the water resources in the area in the form of ponds. However, because of the elevations, there is no way to draw from them for fire fighting purposes. After discussing fire protection options with other fire fighting officials, Mr. Thomas learned that the town of Weare offers three options for fire protection: cisterns, ponds or in-home sprinkler systems. The Newport Fire Chief informed Chief Thomas that sprinkler systems can be much more economical than they used to be in years past. Chief Thomas commented that a 50-gallon sprinkler system would put out a pretty large fire and after looking at remote location of this development and considering the length of the driveways, it was apparent that there would be a larger degree of difficulty getting a fire truck up to any one of these homes during challenging weather conditions. If the fire was already being treated by an in-home sprinkler system, the chances of saving life and home are much greater than waiting for the fire truck to arrive. Chief Thomas was of the opinion that if the sprinkler systems are in the deed restrictions, then the sprinkler system requirement will be out in the open to any potential buyer just as much as they will be

required to build a long driveway and construct their home with wood siding. He commented that the potential buyer has the option of not buying the lot and building a home. Also, there is a payback with fire insurance rates; in 15 years, the homeowner will be saving money.

Mrs. Freeman asked Chief Thomas if there were any reasons why a cistern should not be considered as an option for fire protection for this subdivision.

Chief Thomas stated that a cistern would be hard to install and locate in this area. There would have to be a lot of earth moving in order to dig a hole large enough to install a 15,000 gallon cistern. There is no natural place to put a cistern without cutting old trees and moving historical stonewalls. The sprinkler system will keep a fire under control until a fire truck can get up there. He stated that later, we might be able to study the neighborhood build out and put a large pond to cover the whole area.

Mr. Weiler asked why a cistern couldn't be constructed under the island in the middle of the intersection of Newell Road, Proctor Road and Brown Road.

Mr. Eckman explained that if an underground cistern were installed in that area, it would be in the right of way within the 8 ft. setback and the clear zone would not be met. The clear zone is a setback from the road right of way to a protection barrier that would protect the fill pipe for the cistern from traffic and road maintenance impact.

Selectman Wright commented that in his opinion it appears that there are three developments right in this one area. He asked if a sprinkler system is permitted for fire protection in this development, what the Board is going to do to protect the other two developments. He stated that considering the increase in house lots in this area, the Board needs to find a consistent way to satisfy fire protection requirements for all three subdivisions. If you permit sprinkler systems in this subdivision, then the Board will have to mandate sprinkler systems to the other two subdivisions in order to be fair.

Mr. Vannatta asked if the Board is mandating or permitting sprinkler systems as a method of fire protection. He stated that in his opinion, sprinkler systems seem to be the best option in this area.

Selectman Wright commented that using sprinkler systems as a method of fire protection for this area is not addressing the whole problem, and the Board needs to consider all three subdivisions together because they compound on one another.

Mr. Weiler addressed Mr. Vannatta's question. He explained that the Subdivision Regulations require that fire protection be addressed and agreed upon prior to approval of the subdivision. If the Board approves this subdivision based on sprinkler systems for fire protection, then the Board is in essence mandating sprinkler systems for this subdivision.

Mr. Weiler stated that the Planning Board has not required sprinkler systems in any other subdivision in Newbury before. There is no opposition to the effectiveness of sprinkler systems for fire protection, but the Board should establish a policy and publish that policy prior to putting the burden on homeowners.

Mrs. Freeman commented that Mr. Eckman made a point that if the homeowner doesn't want to go to the expense, then they do not have to buy into that subdivision. Also, it may be a good option for this location. Maybe it is something we have to require for all subdivisions that are not near a natural water source. She explained that the latest fire protection codes already require sprinkler systems in new homes. It is the way things are going because it really does save lives. She commented that Selectman Wright is correct about the need to consider all three subdivisions together, but the Board should not make this developer pay to build a fire pond to service all three developments.

Mr. Eckman pointed out that this is a frontage lot subdivision that will require no new road building or earthwork. As a result, it will be hard to blend in and hide an underground cistern with the surrounding forest and stonewalls.

Mary Webb explained that she is just taking care of things while she can, and that none of these lots are going to be sold until after her death.

The Board reviewed the tax maps to see the overview of this area in relation to the other subdivisions and water sources.

Mr. Vannatta commented that he has no objection to sprinkler systems, but he does not like the idea of making them a requirement.

Mr. McWilliams pointed out that in the Newbury Subdivision Regulations; Article 10.9 Fire Protection explains the requirements. 10.9.1 states that *a water supply for fire fighting purposes shall be available to serve the subdivision. A minimum of ten thousand (10,000) gallons of usable water available all seasons of the year shall be provided in a tank, reservoir, pond or cistern.* Therefore, a formal request for a waiver to article 10.9 will have to be made in writing and considered by the Board. He commented that the Planning Board should amend the regulations to address this issue in the future.

Chief Thomas asked what the cut-off was between Minor subdivisions and Major subdivisions.

Mr. Weiler explained that three or less lots constitute a minor subdivision, and four or more lots constitute a major subdivision. He stated that fire protection is a requirement for any size subdivision.

Mrs. Freeman commented that the Planning Board has never required a cistern for a minor subdivision that she knows of.

Mr. McWilliams pointed out that Article 10.9.3 states that *when questions arise not covered by this section, the National Fire Protection Association 1231 – Standard on Water Supplies for Suburban and Rural Fire Fighting will be used to determine the required fire protection.*

Mr. Geddes commented that it should be pointed out that the distance between this subdivision and the Bradford Safety Services is probably about the same to the Newbury Safety Services. Therefore, something needs to be provided to address fire protection until the safety services personnel get there. He suggested that there are other methods of technology that can be used to fight fires such as a fire retardant spray chemical that can be applied.

Mrs. Freeman pointed out that it is often the heat and smoke that kills in a fire and not necessarily the flames.

Mr. Geddes commented that in his opinion, in lieu of the other deed covenants, the residents that will be building homes on these lots are probably not going to feel financially burdened by the expense of a sprinkler system.

Mrs. Webb stated that it should be an optional thing if someone wants a sprinkler system.

George Carafa, abutter, asked if the requirement of a sprinkler system is going to be across the board in other areas of town, or is it just a requirement in this area.

Mrs. Freeman explained that the Planning Board is obligated to consider just this subdivision at this time. Sprinkler systems are being discussed and considered tonight because this is a major subdivision where there is not a pond or a water source for fire protection, and the developer does not want to opt to build a cistern.

Sense of the Board to allow sprinkler systems in this particular subdivision as a method of fire protection was favorable. 3 – Yes; 1 – not going to object; 0 – No.

Mr. Weiler asked if there were any other issues from the Board that Mr. Eckman should address at the next meeting.

Mrs. Freeman informed Mr. Eckman that he should come back as a final application with a formal request for a waiver of Article 10.9.1, which will be satisfied by sprinkler systems with this requirement to be part of the deed covenants for each individual home.

CASE: 2006-018: Continued Preliminary Review – Briott LLC/OWNER: Scott Falvey – Major Subdivision – Southgate Road – Map 51 Lots 694-483 & 677-461

*Notice is hereby given that the Planning Board will receive submission of an application for a Preliminary Hearing for a Major Subdivision from **Briott, LLC**, for property located off Southgate Road, Newbury, NH, Tax Map 051-694-483 and 051-677-*

461 on Tuesday, April 17, 2007, at 7:30 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 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.

This hearing was cancelled due to an abutter not being properly noticed.

MINUTES

The Board reviewed the minutes of April 17, 2007 and made corrections.

Mr. Weiler made a motion to accept the minutes of April 17, 2007 as corrected. Mr. Geddes seconded the motion. All in favor.

Mr. McWilliams reminded the Board that Patricia Sherman is scheduled to meet with the Planning Board at 7:00 p.m. on Tuesday, May 29, 2007 to discuss the plans for the Town Center. The topic of discussion at the Tuesday June 5, 2007 Planning Board Worksession will be the second part of the Community Facilities and Services Chapter of the Masterplan.

CASE: 1994-002: J. William Krummel – Lot Line Question – Gillingham Drive

Mr. Weiler commented that it may be a moot point now that Mr. Krummel has transferred a lot to his daughter, but previously the Planning Board had rejected the attempt to subdivide the lot. Ten to eleven years ago they approached the Board to convert their ownership into a condominium-type ownership. At that time the Board did not understand that type of ownership. Recently Birch Lane Lodges has asked to convert their establishment into a condominium ownership. Bart Mayer, Town Counsel, has determined that it is a legal conversion and is subject to subdivision review.

Mrs. Freeman asked if a condominium dwelling is still subject to frontage and acreage.

Mr. Weiler commented that the minimum lot requirements are not what condos are about.

Mr. McWilliams stated that if there are four cottages on 2 +/- acres and they are being rented out, all that is changing is the form of ownership.

Mrs. Freeman commented that this issue warrants more research, and the subdivision regulations should be rewritten so that denser, more affordable housing can be accommodated in some areas.

**CASE: 2007-011: Final Review – George Carafa, Owner – Jeff Evans, Agent –
Minor Subdivision off Newell Road – Map 36 Lot 597-418**

*Notice is hereby given that the Planning Board will receive submission of an application from **George Carafa** for a final hearing for a Minor Subdivision off Newell Road, Tax Map 036 Lot 597-418, on **Tuesday, May 15, 2007 at 8:30 p.m.** in the Town Office Building at 937 Route 103 in Newbury, N.H. If the application is accepted as complete, a public hearing on the accepted application will commence at the same meeting.*

Copies of the plan are available for public review at the Town Office Building during regular business hours.

Mrs. Freeman read the above public notice and the Board reviewed the application for completeness.

Mr. Weiler made a motion to accept the application as complete. Mr. Vannatta seconded the motion. All in favor.

Mr. Evans presented the final plat to the Board and explained that Mr. Carafa owns a total of approximately 29.53 acres, which is divided by the Newbury/Bradford Town Line. As a result of the town line, 20 acres is in Bradford and the remaining 9.53 acres is in Newbury. Mr. Carafa would like to subdivide the 9.53 acres in Newbury into two lots. Lot 1 would be 3.21 acres and Lot 2 would be 6.32 acres, both with approximately 300 ft. of road frontage on Newell Road.

Mr. McWilliams informed the Board that RSA 674:53, Land Affected by Municipal Boundaries, states that ‘...*the municipality receiving the application shall inquire in writing to the appropriate administrative official in the adjoining municipality or municipalities as to the existence of facts or regulations which, under paragraphs I, III, or IV of this section or otherwise, would preclude or affect such subdivision, development, construction or change of use.*’ The Planning Board may approve the subdivision on the condition that the officials in Bradford have no problem with the subdivision.

Mr. Vannatta made a motion to approve the minor subdivision for George Carafa on the condition that the Newbury Planning Board receives back from their letter to Bradford that there are no problems with the subdivision. Mr. Geddes seconded the motion. All in favor.

OTHER BUSINESS

Mrs. Freeman emphasized to Selectman Wright that the Planning Board really enjoys having a Selectman at its meetings, and it is very important for communication.

Mr. Vannatta asked if it is possible to include language on the applications to the Planning Board which gives the Board members permission to make a site visit at their own convenience or as a group. He explained that sometimes a site visit may not be scheduled at a time that is convenient for all of the members. He asked if there is a way that the Board can get permission, other than waiting for a preliminary application to visit the site.

Mrs. Freeman commented that site visits are not a required part of the subdivision process.

Mr. Weiler stated that there is plenty of time during the subdivision process to schedule a group visit.

Mrs. Freeman pointed out that minor subdivisions do not always take as much time. The Board members may drive past the site but are not allowed to walk the site without permission.

Mr. McWilliams suggested that a consent form be written into the application to the Planning Board.

Mr. Weiler commented that he wants to make some other changes to the application forms, so he will add the consent form to the list of things to change and make the changes himself for review by the Board.

Mr. McWilliams clarified that if Board members meet to walk a site, they must stay away from ex-parte discussions, which includes emails, unless the meeting is noticed 72 hours ahead and minutes are taken and made available as part of public record. Fewer than four members does not constitute a quorum; and, therefore, no public notice or minutes would be necessary.

Selectman Wright gave the Board an update on Fishersfield Park. He explained that the project has been put out to bid, and there has been a great amount of interest shown. There are some slight variations in the locations of certain fields from what was shown in the Fishersfield Masterplan.

Mrs. Freeman suggested that sports fields be set back far enough from Old Post Road so that stray balls do not become a traffic or safety hazard. Also, she suggested that trees are planted as a buffer separation between fields and the road so that there is not a huge clear-cut expanse of open area.

Selectman Wright informed the Board that the plan does provide for buffers. The committee is also hoping to build a covered bridge over the wetland going to the pond. The prices of materials and construction costs seem to be in a downward trend right now, so hopefully the Town can capitalize on the decreasing costs.

Selectman Wright informed the Board that the Velie playground committee is moving forward on its plans to construct the playground behind the Newbury Public Library. He stated that the wetlands don't seem to be as much of an issue as originally thought. They can be pushed back by creating a buffer which would completely dry up the area behind the library.

Mr. Weiler expressed concern that the Town is destroying a wetland and asked Selectman Wright if the area in question is greater than 10,000 sq. ft.

Selectman Wright said he did not think so.

Mr. Geddes made a motion to adjourn. Mr. Vannatta seconded the motion. All in favor.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary