

Planning Board
October 16, 2007
Approved November 20, 2007

Members Present: Barbara Freeman, Chair; Bill Weiler, Vice-Chair; Deane Geddes; Ron Williams; Ken McWilliams, Advisor

Mrs. Freeman called the meeting to order at 7:05 p.m. The Board reviewed the minutes of September 18, 2007 and made corrections.

Mr. Weiler made a motion to accept the minutes of September 18, 2007 as corrected. Mr. Geddes seconded the motion. All in favor.

CASE: Adm1-058: Capital Improvements Program 2008-2013

The Board reviewed the 2008-2013 Capital Improvements Program prepared with the assistance of Kenneth B. McWilliams & Associates and made minor corrections.

Mrs. Freeman suggested that the Planning Board approve and sign the CIP that since none of the corrections made that evening involved content.

Mr. Weiler made a motion that the 2008-2013 Capital Improvements Program be adopted with corrections. Mr. Geddes seconded the motion. All in favor. The Board signed the CIP.

CASE: 2007-012: Final Review - Friedline Family Trust – Minor Subdivision – 96 Old Sutton Road – Newbury Tax Map 53 Lot 720-506.

Jeff Evans of Evans Land Consultants, PLLC, representing David and Julia Friedline presented a subdivision application and map. The Board reviewed the application for completeness.

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

Mrs. Freeman asked the Board members if anyone had any issues with the plan.

Mr. Williams commented that there were some bounds that appear on the plan to not be set.

Mr. Evans explained that all of the bounds and monuments have now been found and set.

Mr. Weiler commented that there was a minor mistake in the density report, but nothing that affects the accuracy of the calculation so the report should be accepted as submitted.

Mr. Evans explained the intent of the subdivision. The Friedlines would like to subdivide one lot of 10.84 acres into two lots of 5.14 acres and 5.70 acres respectively. Lot 1 of 5.14 acres has 261.3 ft. of road frontage on Old Sutton Road in Newbury, and Lot 2 of 5.70 acres has 201.32 ft. of road frontage on Old Sutton Road in Newbury and 166.70 ft. of road frontage on Old Sutton Road in Bradford. The driveway for Lot 2 will enter from the Bradford portion of frontage and 1.01 acres of Lot 2 is in Bradford. There is going to be a "No Disturb" area where the Lot 1 existing driveway passes over Lot 2. This area is noted on the plan as *'Area of easement retained by Lot 1. Area to be maintained in a natural state with normal driveway maintenance and repair and access to the lower yard.'* Mr. Evans stated that the soils are good, slopes are minimal and the sight distance at the proposed driveway for Lot 2 is good at 400 ft.+ in both directions.

Mr. McWilliams asked Mr. Evans about the triangle of land in Bradford that interrupts the Friedlines frontage indicated on the plan as being owned by Theodore Blachly.

Mr. Evans explained that in the 1960's-1970's, that piece of land was annexed to the larger parcel now owned by the Friedlines, but it was never conveyed in the deed by the owner. Therefore, legally the owner remains Theodore Blachly.

Mr. Weiler asked if it was legal to use the frontage in one town to meet the requirements of the abutting town when the town line runs through the said parcel.

Mr. Williams confirmed that there is over 200 ft. of frontage on Lot 2 in Newbury, therefore that is not an issue for this subdivision.

Mr. Evans and the Board discussed whether or not Bradford or any abutting Town needs to be notified and consulted on subdivisions when the relevant parcel extends into both Towns.

Mr. Evans provided copies of RSA 674:53 Land Affected by Municipal Boundaries to all of the Board members.

Mr. Evans' interpretation of RSA 674:53 is that because in this situation the land in Bradford is not a stand-alone lot, Bradford does not have to be consulted. Mr. McWilliams' opinion and interpretation of RSA 674:53 is that the Bradford Planning Board does need to be consulted so that Newbury is sure that Bradford's requirements are not being violated by approval of the subdivision.

Mr. Evans asked the Board if this subdivision meets Newbury's requirements.

Mrs. Freeman advised Mr. Evans that this subdivision does meet Newbury's requirements and that the mylar will be held for Bradford's approval before it is sent to the registry for recording.

Mr. Evans was of the opinion that Bradford will not respond because there is no issue for the Town of Bradford to be concerned with.

Mrs. Freeman advised Mr. Evans that if he is in a hurry to have this plan recorded, he should contact the Bradford Planning Board and prompt them to respond. She advised Mr. Evans that he should also pursue the Carafa subdivision with the Bradford Planning Board as well.

Mrs. Freeman opened the hearing to public input.

David Friedline asked the Board if the area of Lot 2 that is in Bradford was not there, would there be a problem with this proposal. He indicated that the "appendage" in Bradford is relatively useless and is holding up the subdivision process.

Mrs. Freeman assured Mr. Friedline that the proposed subdivision does meet the Newbury requirements and would even without the land in Bradford. She pointed out that the land in Bradford is not useless because the access to Lot 2 passes over that land in Bradford.

Mr. Friedline concurred with Mrs. Freeman and mentioned that there is a purchase and sales agreement on the house and they are hoping to get the subdivision done quickly so they don't lose the sale on the house.

Mrs. Freeman assured Mr. Friedline the subdivision requirements are met in Newbury and she suggested, again, that it would be in his best interest to stay on track with getting the Bradford Planning Board's approval.

There were no further comments from the public and the Board began deliberations.

There were no further questions from the Board.

Mr. Williams made a motion to approve the subdivision subject to concurrence of the Bradford Planning Board. Mr. Weiler seconded the motion. Discussion followed.

Mr. Geddes stated that because of the wording in RSA 674:53, he was not convinced that the Bradford Planning Board needed to communicate their approval or disapproval.

Mr. Weiler commented that Paragraph IV of the RSA 674:53 is the operative paragraph in this case. He also commented that if this subdivision is required to go to Bradford, then there should be a signature block on the plan for the Bradford Planning Board to sign.

Mr. Williams amended his motion to include: and a signature block for the Bradford Planning Board approval shall be indicated on the plan. Mr. Weiler seconded the amendment to the motion. All in favor of the amendment.

VOTE on Mr. Williams' motion as amended: All in favor.

Mr. Evans asked if the Board requires topographical and wetland delineations on lot line adjustments, specifically the Baker/Seabolt lot line adjustment on South Road.

Mr. McWilliams advised Mr. Evans that topographical and wetland delineations are not required per the Newbury Subdivision Regulations for lot line adjustments.

CASE: 2007-0013: Preliminary Review – Land of the USA (John Hay Wildlife Refuge – Minor Subdivision – 456 Route 103A – Map/Lot 18-232-347

Notice is hereby given that the Planning Board will receive submission of an application from the Land of the United States of America (John Hay wildlife Refuge) for a preliminary hearing for a Minor Subdivision at 456 Route 103A, Tax Map 18 Lot 232-347, on Tuesday, October 16, 2007 at 7:45 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.

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

Present to discuss the application was Michael Peverett, P.L.S. from Civil Consultants, Barry Parish from the US Fish and Wildlife Service and Heather Rule from the US Fish and Wildlife Service.

Mr. Peverett explained that the United States of America, Department of the Interior Fish and Wildlife Service owns a 164-acre tract of land between Route 103A/Bowles Road and Lake Sunapee and would like to subdivide that parcel into two lots of record, Lot 1 to be 83.80 acres +/- and Lot 2 to be 79.81 +/- acres. He explained that it is the intent of the owner to retain ownership of Lot 1 as the John Hay National Wildlife Refuge and convey Lot 2 to a non-profit organization, the NH Audubon Society, to serve as an intermediary to facilitate the final transfer of Lot 2 to the Friends of the John Hay Refuge.

Mr. Peverett stated and submitted written documentation that explained that it is not the intention of this land division that either of the two lots will ever be further divided or that houses will ever be constructed. There are no new public or private roads or utility construction in the scope of the present project. Additionally, no new private water or septic disposal systems are being proposed. This exchange would transfer fee title ownership of approximately 83.7 acres of the Refuge, including all of the historic infrastructure and a water line easement to the Friends of the John Hay Refuge. The Wildlife Service would retain about 79.6 acres of predominately undeveloped wildlife habitat generally lying south of the property proposed for exchange. In return, the Service would acquire title to property in Errol, NH with equal or greater appraised value

and greater wildlife values that would be incorporated into the Lake Umbagog National Wildlife Refuge. The property in Errol is a desirable acquisition for the Service because it includes a portion of the headwaters of Mollidgewock Brook, diverse wetland habitats, and is home to numerous migratory birds including the American woodcock, American black ducks, and a variety of other migratory birds and resident wildlife.

Mr. Peverett advised the Board that the Service is asking for four waivers from the subdivision regulations as follows:

1. Density Report as required by Section 9.3.
2. Subdivision Plan Section 9.4.12 showing subdivisions, lot line, existing buildings and intersections and streets within 200 ft. of the parcel to be subdivided.
3. Topographic Map as required by Section 9.5. Shown on the plan are 20 ft. contours digitized from the USGS 7.5 minute quadrangle to show the Board, the general nature of topography of the tract.
4. Soils Report and Map as required by Section 9.6.

Mr. Weiler made a motion that all of the waivers requested be approved. Mr. Geddes seconded the motion. All in favor.

Mr. Geddes asked Mr. Peverett who will be responsible for maintaining the view easement.

Mr. Parish stated that the Friends of the Fells will be responsible for maintaining the view easement. The view easement had been cleared within the last couple of years to what was agreed to, but that is not as much as the view was originally.

Attorney Gartrell, representing the Friends of the Fells, explained that the reason the Audubon Society is acting as an intermediary in the acquisition of this property and will be given an easement and in order to transfer this property from the government to a private organization. The purpose is to preserve and keep the Hay Estate as a publicly accessible historic facility.

Mr. Parish commented that as far as the Fish and Wildlife is concerned, there is an existing nature trail which may be extended, but other than that, there will be no development.

Mrs. Freeman stated that the application looks fine. The next step is for the applicant to come back to the Planning Board for a final presentation.

Mr. Weiler suggested to the Board that the applicant should be allowed to submit the application for final hearing and the appropriate fee without having to submit all of the documentation per the subdivision regulations.

The Board agreed that the application form and fee only is all that is necessary to submit for the final hearing. The Board will not require new plans.

CASE: 1997-017: Preliminary Site Plan Review – Captain’s 1st Choice – David Long – 54 Route 103 – Map/Lot 43-797-526.

Notice is hereby given that the Planning Board will receive submission on an application from David Long for a Preliminary Hearing for a Site Plan Review at 546 Route 103, Tax Map/Lot 43-797-526, on Tuesday October 16, 2007 at 8:15 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.

Mr. Weiler clarified that the Zoning Board of Adjustment had previously ruled that the auction hall is considered a retail sales use, therefore, there is no need for a special exception for change of use from the White Star Auction Hall to the Captain’s 1st Choice.

Mr. Stewart explained that he submitted a new, full site plan review application because at the last hearing, the Board determined that a full site plan review hearing would be required. He commented that the plan shows the overall lot and references a survey that was done by Clifford Richer. The plan is on a scale of 1 in. = 20 ft. and shows the different aspect of an addition of a 10 ft. x 90 ft. covered porch with parking and rearrangement thereof. He informed the Board that Mr. Long is asking for four waivers as follows:

1. Boundary Survey Section 10.7.5 – 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.

2. Grades & Topographic Section 10.7.10 – 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 on the data that is depicted on this site plan.

3. Streams, Wetlands, marshes, lakes or ponds 200 ft. beyond boundary Section 10.7.11 – 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.

4. Drainage Plan Section 10.9 – 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 structures meet 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. Long explained that he might not immediately build a greenhouse. The greenhouse is indicated on the plan now rather than have to come back to the Board for another site plan review. Also indicated is an outdoor display area for items such as garden fountains, anything heavy that cannot be set inside the building, shrubbery, etc. and any other larger garden items that may not fit in the greenhouse.

Mr. Stewart explained that there is parking in the rear of the building to take the place of the spaces on the Route 103 side of the building. In the front of the building, there will be some parking with approximately 61 ft. to facilitate parking and turning around. The parking areas will be maintained as gravel.

Mrs. Freeman asked Mr. Stewart how close the parking area is to the Pond.

Mr. Stewart stated the parking area to the southeast of the building is the same distance as it was originally, approximately 40 ft. from the man-made pond and was in existence prior to the wetland setback requirement.

Mr. Weiler stated that the Board has no jurisdiction over the pond because it is a man-made pond and not part of the shoreland overlay district because it is too small. Also, it is not a wetland because the soil is not sufficient enough to sustain wetland vegetation.

Mrs. Freeman commented that one of the concerns that she has heard is that people would like to see the site a little tidier.

Mr. Long commented that that is one of the reasons for the porch and the greenhouse.

Mrs. Freeman suggested that Mr. Long consider a fenced in area for items that need to be displayed and/or stored outside.

Mr. McWilliams asked Mr. Stewart if the roof of the building is being changed.

Mr. Stewart said there are no plans to change the roof.

Mr. Williams commented that an outdoor display of trees and shrubs would help draw customers.

Mr. Stewart stated that there are also plans to plant flowerboxes between the parking spaces and the building to add to the aesthetic value of the building and also to act as a barrier.

Mrs. Freeman asked the Board members if there were any issues that need to be addressed for the final review.

Mr. Geddes asked if there was going to be a gate across the driveway.

Mr. Stewart said that there will be a gate across the driveway and it will be drawn on the plan for the final review.

Mr. Weiler asked Mr. Stewart how many outdoor lights are planned.

Mr. Stewart explained that there would be three freestanding 100-150 watt sodium vapor low intensity lights, directed downward and three 100-watt incandescent lights mounted on the building.

Mr. Long explained that he is trying to design the lighting so that it is not difficult and distracting to passing traffic.

Mr. Weiler stated that as long as the lighting is shielded to prevent the light from going out onto the road, Mr. Long may use anything he wants and reminded Mr. Long that there is an article in the zoning ordinance that no light shall shine onto the road. That is all the Board asks for Mr. Long to abide by regarding lighting.

Mrs. Freeman commented that signage for the handicapped parking needs to be indicated and advised Mr. Stewart to keep in mind that the Board expects the site to be organized in the manner that is presented on the plan. She also advised Mr. Stewart to be sure and verify the accuracy of the abutter list submitted for the final hearing.

CASE: Adm1-061: Masterplan 2007

The Board discussed with Mr. McWilliams how many copies of the 2007 Masterplan should be printed and whether or not the maps should be in black & white or color. The sense of the Board was that fewer copies should be printed and the Masterplan should be made available on the website, then the copies that are printed could be printed with colored maps and remain within a reasonable cost.

CASE: 2007-019: Conceptual Minor Subdivision – Scott Hill – 145 Stoney Brook Road – Map/Lot 26-205-146

Mr. Hill presented a plan of his property at 145 Stoney Brook Road. He would like to subdivide one lot of 8.97 acres into two lots of undetermined size. He explained that he had been to the Planning Board about four years ago to subdivide this same lot into three lots but was denied that many lots.

Mrs. Freeman advised Mr. Hill that he needs to apply to the Planning Board for a 2-lot minor subdivision and follow the guidelines in the subdivision regulations. A surveyor should be able to redraw the lines to accommodate the wetlands, slopes and building envelopes as required by the subdivision regulations.

Mr. Weiler commented that Mr. Hill ought to be able to easily get two lots out of this piece of land unless the lot is comprised of an excessive amount of wetland.

CASE: Code-040: Zoning Amendments for Town Meeting 2008

Mrs. Freeman asked the Board members if anyone had zoning amendments they would like to propose for the 2008 ballot.

Mr. Weiler stated that at the November 6, 2007 Planning Board Worksession, the Board will receive the Storm Water Management Ordinance along with the Conservation Plan.

CASE: Code-038: Storm Water Management

Mrs. Freeman asked Mr. Geddes to give an update on the status of the Sunapee Area Watershed Coalition's Plan.

Mr. Geddes explained that a little over a year ago SAWC decided to join up with Granite State Rural Water. Jennifer Palmiotto, head of GSRW, took the Coalition members through a 12-month process similar to the Masterplan. The Plan mostly addresses concerns in the watershed that will have a negative effect on the Lake. The Coalition made a list of those concerns. The biggest issue was the sewer pipe breaking in Georges Mills. The group toured the water shoreline in Newbury, walked Dan Wolf's property with a forester, and Jennifer addressed each of the various things that she was hired to do. The Coalition began in January and should have a draft plan in December along with some conclusions and recommendations.

Mrs. Freeman commented that it would be nice to have the Watershed Plan and an Energy Conservation Plan incorporated into the Masterplan.

Mr. Weiler commented that he does not understand what an Energy Plan has to do with the Masterplan.

Mr. McWilliams explained that there are some things that do overlap in energy planning and land use planning such as transportation planning, parking for carpoolers, municipal vehicles, etc.

Mr. Williams asked Mr. Geddes how the SAWC Plan addresses invasive issues such as weed growth and parasites.

Mr. Geddes explained that those issues are already being addressed. There are two outbreaks of milfoil being monitored as well as monitors catching milfoil on out of state trailers. Rocksnot is being discovered on the rocks coming up the Connecticut River, but environmentalists do not yet know how to control or eliminate it.

Mr. Williams made a motion to adjourn. Mr. Geddes seconded the motion. All in favor.
Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Linda Plunkett