

Planning Board
May 20, 2008
Approved June 17, 2008

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

Mr. Vannatta called the meeting to order at 7:00 p.m.

CASE: Adm1-042: Board Elections

Mr. Vannatta advised the Board that Bruce Freeman indicated that after sitting in on several Planning Board meetings, he would be happy to serve as an official Alternate member to the Planning Board.

Mr. Wright suggested that the Board should follow the same practice as with other Board members and assign an interview committee to interview Mr. Freeman before appointing him as an alternate.

Ms. Freeman expressed concerns and emphasized that it is important for Alternate Board members to attend all meetings, the same as regular Board members. In light of his status as an observer, she commented that Mr. Freeman has not participated and contributed very much in past meetings. An interview would help determine if Mr. Freeman would be an asset to the Board.

Mr. Vannatta agreed that an interview would be helpful since Mr. Freeman, as an observer, does not have the same privileges as a Board Member to ask questions and participate in discussions. A better impression of Mr. Freeman's contributions to the Board would be obtained.

Mr. Wright stated that when he became a Planning Board member, a committee interviewed him. He commented that it is important for Board members to be familiar with each other and able to handle the workload.

Mr. Freeman joined the Board at the meeting table and Mr. Vannatta advised him that the Board would not be appointing him as an alternate this evening. That appointment will be at the discretion of the Board after an interview, as done in the past.

CASE: 2008-011: Bell Engineering - Bob Bell – Chalk Pond Watershed – 4'x30' culvert installation

Steve Russell, Representative from Sunapee Hills Association, was present to discuss a project proposed by Bell Engineering in the Chalk Pond watershed. Mr. Russell laid out a copy of the tax map to illustrate the 86-acre parcel owned by Bell Engineering on which he has applied to the Wetlands Bureau to install a 4 ft. x 30 ft. culvert to build a road to access a tree-harvest area. Placement of this culvert is in a documented and well-

established wetland. Mr. Russell went on to describe the area as a vibrant wildlife corridor and wetland environment. He stated that the Chalk Pond Association's main concern is the placement and size of the road and culvert. The size is not consistent with that of a temporary logging culvert. This size culvert is consistent with a road and not a 'temporary installation.'

Mrs. Freeman stated that she had asked Mr. Russell to bring this issue to the Board's attention. She commented that she thinks the Board should be made aware that this is happening. A letter should be sent to Mr. Bell making him aware of the Town's regulations regarding these issues.

Mr. Wright commented that as soon as the operation is complete, the culvert should come out. That, too, will be a great disturbance to the wetland.

Mr. Russell informed the Board that the Wetlands Board found Mr. Bell's application to be Administratively Incomplete. The required letters to the abutters described the activity as only 'installation of a culvert'. The application to the Wetlands Board described and elaborated on the proposed activity as 'installation of a culvert for harvesting access. This level of disclosure to the abutters is very poor and very suspicious that the intention is more than the simple installation of a culvert. Additionally, in the letter to the abutters dated April 7, 2008, Mr. Bell stated that the application is available at the Town Office for review. It was not filed with the Town until April 21, 2008. This shows a consistent pattern of the lack of transparency and clarification so people can be informed and have the opportunity to ask questions.

Mrs. Freeman read from the Subdivision Regulations, Section 4.1 as follows: *No subdivision road or road for any other purpose shall begin to be constructed on land where a subdivision will be proposed before an application for subdivision is approved. The cutting of trees shall be construed as evidence of the beginning of road construction. The Board reserves the right to seek a cease and desist order, and to make relocation a condition of approval.*

Mr. McWilliams commented that Mr. Bell will need a Wetland Buffer Conditional Use Permit from the Planning Board which allows for certain uses within the wetland buffer.

Mr. Russell commented that aside from the wetland, the surrounding terrain is not conducive to timber harvesting due to the steep slopes and cliffs. Cutting on the steep slopes will create severe problems in the watershed. The Sunapee Hills Association is working very hard to address issues of erosion in the watershed.

Katheryn Holmes, Conservation Commission Chair, provided the Board with a copy of a letter from the Conservation Commission to the State Wetlands Board regarding this application. In the letter, the Commission outlines specific observations and recommendations including a site review from a soil scientist.

CASE: 2007-018: Site Plan Review – Jim Dudley, Sunapee Outfitters, LLC – Property Owned by Mary Webb at 104 Route 103 – Newbury Tax Map 50-531-080.

Mr. Vannatta reminded the Board that Mr. Dudley was invited back to the Planning Board to discuss Bart Mayer's opinion on whether or not the use of an auxiliary lot on Lake Todd for watercraft demonstrations would be considered funneling. Mr. Vannatta commented that Mr. Mayer indicated that he was providing his insights, not a declaration or a decision to the Board. In his letter, Mr. Mayer talked about the zoning ordinances; the shoreland overlay district and common area. He stated that the applicant must satisfy the requirements of Article 7.7.3. *Common Areas: Lots within the Shore Land Overlay District used as common waterfront areas for the purpose of waterfront access shall:*

7.7.3.1 contain a minimum of two (2) acres

7.7.3.2 have a minimum of two hundred (200) feet of shore frontage for the first dwelling unit or member having a right to use, and an additional thirty (30) feet of shore frontage for each additional dwelling unit or member.

7.7.3.3 contain no building other than toilet and changing facilities

7.7.3.4 separate boating areas from swimming areas by natural or made dividers and mark the separation

7.7.3.5 provide parking areas of three hundred (300) square feet per dwelling unit for each dwelling unit located more than ¼ mile from the shore land common area.

Parking areas shall be setback a minimum of seventy-five (75) feet from normal high water. The Planning Board may require greater than seventy-five foot setback from normal high water for parking areas according to the suitability of the shore land. The parking area shall be screened from the lake or pond.

7.7.3.6 provide toilet facilities approved by the NH water Supply and Pollution Control Division of the Department of Environmental Service.

Mr. McWilliams stated that this issue is more problematic when considering the criteria of the common open space regulations. He commented that it could comply as a residential building lot, but since it is being considered for a commercial use the issue of funneling through a common area becomes an issue since the number of people using the lot is more than three unrelated people.

Mr. Dudley informed the Board that the auxiliary lot is approximately 0.75 acres with approximately 150 ft. of shore frontage.

Mr. Wright commented that that lot was already in existence when the shoreland regulations became effective; therefore it is grandfathered and does need to be 2 acres.

Mr. Dezotell commented that Mr. Mayer did not address all of the Board's concerns. They would be providing access to the lake, which is encouraged by the State. He asked how is the watercraft use in the summer is different than snowmobile use in the winter. Additionally, there are some personal property laws that would come in to play, and it would be very difficult to deny access over unposted land.

Mr. Vannatta commented that the snowmobile use is not commercial.

Mr. Dezotell stated that it is commercial in the sense that the snowmobilers pay a fee for access to the trails of the snowmobile club.

Mr. Williams commented that the auxiliary site could be leased as a separate property and therefore not under the guise of funneling. The purpose of funneling is to preclude multiple homeowners from accessing the lake through one piece of land. He stated that he does not believe Mr. Mayer addressed all of the Board's concerns. He stated that he agrees with Mr. Dezotell and that the snowmobiles do more harm to the environment than kayaks and canoes. Kayaks and canoes don't use gas and drip oil.

Mr. Wright commented that he agrees with Mr. Dezotell and Mr. Williams. This is just granting access for a one-time demonstration prior to purchase; it is not funneling. He stated that he does not believe Mr. Dudley needs to come before the Planning Board for a funneling issue.

Mrs. Freeman stated that she agrees with the other Board members.

Mr. Dudley reiterated that the use of the auxiliary lot would only be for a few months a year from 10 am – 6 pm.

Mrs. Freeman commented that a site plan review hearing is necessary for use of the auxiliary lot but she does not see any reason why the commercial use as proposed should not be allowed.

Mr. Dezotell made a motion to acknowledge the property owner's right to grant access across their lot for low impact access as proposed and subject to Site Plan Review. Mrs. Freeman seconded the motion. All in favor.

Mr. Dudley will return to the Board in June for a Final Site Plan Review Approval on the auxiliary lot.

CASE: 2008-006: Conceptual Site Plan Review – Elliot Hansen – 877 Route 103 – Tax Map/Lot 020-019-072.

Mr. Hansen explained to the Board that he would like to convert the building at 877 Route 103 from the use of a church back to its original use as a Real Estate Office. The lot is a total of 2.02 acres with approximately 215 ft. of road frontage on Route 103 extending an additional 255 ft. up Old Post Road. There will be no changes in the outside dimension of the building. The color of the outside of the building is proposed to be a "Hawthorne Yellow". The signs on the top of the building are proposed to be a "Hunter Green" with black added for more class and character. The sign on the road is proposed to be carved with gold leaf and a low watt spot to illuminate both sides at night. The parking will not change from the layout for a previously approved daycare on the same site. The front parking area will be repaved with some granite curbstone and the existing peninsula will be redesigned so that it is more appealing with landscaping of low bush and vegetation. The left side parking area will remain bluestone for now. The inside will be updated and reconditioned with new lighting, flooring, paint, kitchen and bathroom fixtures.

Mr. McWilliams commented that this conversion would be a change of use and a Site Plan Review hearing is required. He advised Mr. Hansen to focus on Uses Permitted in the Zoning Ordinance and the Site Plan Review requirements in the Site Plan Review Regulations.

CASE: 2008 - 007: Cosmos Investment – Stephen Lonsdale - Mountainview Farm Antiques - 1423 Route 103 – Tax Map/Lot 007-425-106.

Notice is hereby giving that the Planning Board will receive submission of an Application for a Site Plan Review from Cosmos Investment Group, for property located at 1423 Route 103, Newbury, NH Tax Map 007-425-106, on Tuesday, May 20, 2008 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 application will commence at the same meeting.

The Board reviewed the application for completeness.

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

Mr. Lonsdale, applicant, explained to the Board that he would like to use the building on site for a retail establishment for an antique business. His business is currently located in Wilmot on his home site, but the business has grown and needs additional space. This building fits the type of retail space needed. It has good visibility to the public and is ideal for showing antiques. There will be complete external and internal renovations and painting. The first and second floors will be for retail space, and the third floor will be used for office space and storage. The total square footage of retail space is proposed to be 2,000 sq. ft., which results in 8 required parking spaces. There is proposed to be 8 spaces in the rear lot, which is generally level, and 2 spaces in the front, 1 that will meet handicap requirements. There will be a new walkway to access the building via the front porch. Mr. Lonsdale explained that the rear area drainage would be via a grass berm to a catchment area then onto a rain garden. The remaining area is grass and overgrown with vegetation. This remaining area will be maintained as is. The entryway will be reconfigured to accommodate a continual walkway. The principle entrance will be at the rear, with new stone steps to be installed. The plantings will be natural vegetation characteristic of the area. There is a fairly tight timeframe to work with, and the opening date is planned for the beginning of August, weather permitting.

Mrs. Freeman asked if the handicap walkway is on the same level as the building.

Mr. Lonsdale explained that the difference between the mid-point of the handicap parking space to the front of the building is only 3 inches. The access will be graded for a smooth, maneuverable travel. There will be a transitional ramp from the porch deck into the building to span the 2.5-inch difference height. The walkway will be paved.

Mrs. Freeman commented that the trash storage is not located on the plan.

Mr. Lonsdale stated that there could be a dumpster in the lower part of the property near the barn, but it will not be necessary because the only trash will be generated from retail paperwork and the office.

Mrs. Freeman asked why the access into the parking area is very wide, almost 60 ft. She commented that the site would be better off without so much hard pack.

Mr. Lonsdale explained that he is following the previous site plan layout, which was designed to accommodate space for vehicles backing and turning. The Engineers were more concerned with safety.

Mr. Williams commented that he thought the parking layout is safer as proposed.

Mr. Dezotell commented that he agrees with Mrs. Freeman that the parking area would look better without so much open hard pack, but it would not be as safe.

Mr. McWilliams advised that it is an existing parking area prior to the 75 ft. setback and is grandfathered.

Mrs. Freeman asked Mr. Lonsdale to explain the operation of the drainage swale.

Mr. Lonsdale explained that the swale leads to a catch basin, then to a stone trench, then to a trench beneath the rain garden where the residual runoff will be absorbed by the vegetation in the rain garden.

Mrs. Freeman asked if there will be curbs between the gravel of the driveway and the swale.

Mr. Lonsdale explained that the top of the swale will be banked over to avoid gravel from getting into the swale without putting in stone curbing as an attempt to keep the area maintenance friendly.

Mrs. Freeman asked Mr. Lonsdale to explain the lighting plan since there was none indicated on the site plan. She commented that if Mr. Lonsdale plans to be open after 4:00 pm in the winter, he will need outdoor lighting.

Mr. Lonsdale explained that he is not planning on lighting the area because he does not plan to be open during the dark hours of the day/evening. He stated that there are safety lights on the barn and on the side of the building if needed. He explained that there are several posts with fuse boxes scattered throughout the property from when it was used as a miniature golf course that could be used for additional outdoor lighting.

Mr. Dezotell suggested to Mr. Lonsdale to consider motion sensor lights instead having lights on 24 hours/day and creating light pollution.

Mr. Lonsdale stated he could install the motion sensor lights for the short days of the winter.

Mrs. Freeman advised Mr. Lonsdale that the placement of outdoor lighting is required to be on the site plan. She asked Mr. Lonsdale where the septic system is located.

Mr. Lonsdale explained that the existing septic system is between the house and the brook, and the well is on the other side of the road.

Mrs. Freeman advised Mr. Lonsdale that the locations of the septic and the well should also be on the site plan.

Mr. Geddes asked Mr. Lonsdale what types and where would the signage be located.

Mr. Lonsdale explained that the sign advertising the business would be in the same location as the existing sign, and then there would be directional signs for the entry, handicap parking, speed restrictions in the driveway and driveway signs.

Mrs. Freeman asked Mr. Lonsdale if he would be refinishing antiques on this site.

Mr. Lonsdale said that he would not be refinishing anything on this site. That work will continue to be done in Wilmot.

Mr. Vannatta opened the meeting to the public.

Karen Carruth, abutter, stated that she and her husband, Bill Carruth, were not notified of this hearing. They only knew about it from reading the public notice in the newspaper. She commented that they are happy to see a positive change in the site. She asked Mr. Lonsdale if he was going to provide retail space for consignment pieces from outside dealers.

Mr. Lonsdale stated that he placed an advertisement in the paper for consigners as an attempt to see if there was any interest from other dealers. If this happens, it will only be for one or two pieces. There will not be "space" rented out for other dealers to place their items on consignment. There will not be other dealers working on this site to sell their items. If an item is brought in to be placed on consignment, it will be brought in by the Lonsdale's truck. There will be no extra traffic, employees or consigners on site.

The Board reviewed the abutter list against the tax map and determined that the Carruth's were the only abutters that were not notified.

Mr. McWilliams advised that the hearing does not need to be re-noticed and re-heard because the only abutter that was not notified by certified mail did get notified via the newspaper and has come to the hearing.

There were no further questions from the public. Mr. Vannatta closed the hearing to public input.

Mr. Williams made a motion that the Site Plan Review be approved as presented subject to the condition that the location of the well and septic system be shown on the plan and

the location of th the external lighting also be shown on the plan, which will be subject to the Planning Board's approval. Mr. Dezotell seconded the motion. All in favor.

CASE: Code - 012: Stephen Shultz – Birch Bluff – Shoreland - Funneling

Mr. Shultz explained to the Board that he owns two properties, one in Birch Bluff with a house and the other land only on Lake Sunapee. He would like the Board's opinion if he can deed his house parcel a right of way through the lake parcel so that the House lot has access to Lake Sunapee.

Mr. McWilliams stated that Article 7.7.2 of the Zoning Ordinance addresses the creation of access rights.

Mrs. Freeman stated that it is clearly stated in the ordinance that creating access rights is prohibited.

MINUTES

The Board reviewed the minutes of April 15, 2008 and made corrections.

Mr. Williams made a motion to accept the minutes of April 15, 2008 as corrected. Mr. Dezotell seconded the motion. All in favor.

CASE: 2004-006: Angel Hawk Subdivision - letter of credit

Update

Mrs. Freeman explained to the Board that the letter of credit on Angel Hawk has expired; yet the work is still not complete. Today, the developer's engineer, David Eckmann, Eckmann Engineering met with Cal Prussman, Newbury Highway Administrator, and Lou Caron, LC Engineering; Newbury's Representative on the subdivision site to determine what still needs to be done. Mr. Caron has a new list of what needs to be done and is calculating the cost of completion of both onsite and offsite improvements so that the letter of credit can be reduced to cover the work. Mr. Mayer has suggested that a letter be sent to the developer informing him that if the letter of credit is not reinstated or if the work is not done, then the Board can hold a public hearing and the subdivision can be revoked, excepting the lots that are currently privately owned.

Mr. McWilliams advised the Board to require that the letter of credit be in hand by the next meeting or else the Board will move forward with action to revoke the subdivision. A copy of that letter should go to all interested parties, including the bank, the developer, the engineers, etc.

Mrs. Freeman was asked and agreed to draft the letter to the developer, Angel Hawk, LLC.

CASE: 2001-001: Discussion of Site Plan Review - Don Swartz – 435 Route 103 – Tax Map/Lot 043-477-431 – Chiropractic Office

Mr. Vannatta informed the Board that Mr. Swartz is advertising Chiropractic Services provided from his property at 435 Route 103. Currently, there is a site plan approval for a retail catalog service with office space. He asked the Board for a consensus as to whether or not this additional use as a chiropractic office requires another site plan review hearing for a change of use.

Mrs. Freeman commented that in the zoning regulations, medical is not considered different than office. Since he already has approval for office space, this additional use is not a change from what was approved; and therefore, does not need a site plan review.

Mr. Williams stated that the existing use is not actually retail because the orders are placed through a catalog via the internet

The sense of the Board was that there was no change in use and therefore no need for a site plan review hearing.

Mr. Dezotell made a motion to adjourn. Mr. Williams seconded the motion. All in favor.
Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Linda Plunkett