

Sandown Planning Board
Minutes
September 7, 2010

Date: September 7, 2010

Place: Sandown Town Hall

Members Present: Donna Green, Chairman, Mark Traeger, Vice Chairman, Matt Russell, Marilyn Cormier, Tom Tombarello, Ex-Officio (arrived at 7:30), Ed Mencis and Steven Meisner

Also present: Bette Patterson, Administrative Assistant and Town Engineer Steve Keach

Absent: Alternate Ernie Brown and Alternate Fred Daley.

Opening: Chairman Green opened the meeting at 7:04 p.m.

Approval of Minutes:

August 17, 2010

MOTION: Marilyn Cormier made a motion to approve the minutes of August 17th , 2010 as amended. Ed Mencis seconded. Steve Meisner and Tom Tombarello abstained. Donna Green, Mark Traeger, Matt Russell, Marilyn Cormier and Ed Mencis voted in favor of the motion. MOTION PASSED.

Correspondence:

- **Copy of letter to Attorney Gorrow from the Board of Selectmen regarding MCC Northwoods Subdivision – Valerie Way** – The letter requests advice on how to secure a surety from MCC Northwoods.
- **Letter from Board of Selectmen regarding acceptance of resignation as the planning board ex-officio from Nelson Rheume** – Selectman Tombarello has been appointed to serve as the new ex-officio. The board agreed to send Mr. Rheume a thank you card.
- **Copy of letter dated 8/25/10 from Peter S. Schauer, Certified Wetland Scientist, Schauer environmental Consultants, LLC to Eben Lewis, Wetland Compliance Specialist, Wetlands Bureau/Site Specific, Department of environmental Services.** This letter was a report on the status of 2,032 square foot wetlands restoration on Riverbend Estates Subdivision (Sarkozy property Map 14, Lot 19-70). Mark Traeger stated that according to the letter, 50% of the vegetation is still alive and the soil is stabilized. The silt fence on the downside slope of the drive should be maintained and remain in place until the driveway crossing construction is completed and stabilized. Chairman Green stated that Mr. Schauer concluded that no further monitoring of the wetland restoration areas should be required. Mr. Keach stated that they like to see 85% of the vegetation holding which is that standard that DES deems it to be approved for the

43 silt fence to be removed. Matt Russell stated that while it's Mr. Schauer's opinion as the
44 paid consultant by the land owner, that no other monitoring should be required, it's
45 actually DES that would make that decision. Mr. Russell stated that he would assume
46 that the planning board would receive a report from DES. The board discussed that the
47 letter actually states that the survival rate of the shrub and sapling plantings is 50%. Mr.
48 Keach stated the actual groundcover may be at 85% or higher. Mr. Keach stated he has
49 been to this site and did not observe very much unprotected soil on the disturbed area.

- 50 • **Copy of a letter to the Board of Selectmen from Keach-Nordstrom Associates, Inc.**
51 **dated August 27, 2010 regarding Riverbend Estates Subdivision** – This is a report and
52 inspection with final checklist and a recommendation to the Board of Selectmen to accept
53 the roads. Mr. Keach noted that Hillside Estates is scheduled to be paved Thursday,
54 September 2nd and Friday, September 3rd. Chairman Green asked how long the binding
55 course has been down. Mr. Keach replied that the binding course has gone through three
56 or four winters.
- 57 • **Copy of Bound Certification from Kevin Hatch, Surveyor, for Riverbend Estates,**
58 **Map 14, Lots 5 and 19 and Map 18 Lot 1 Phases 1, 2, and 3.**
- 59 • **Letter dated August 26th, 2010 to Board of Selectmen stating the balance of School**
60 **Impact Fee Account.**
- 61 • **Letter dated August 26th, 2010 to Board of Selectmen stating the planning board's**
62 **recommendation to accept the 2,035 foot section of Glastombury Drive as a town**
63 **road.**
- 64 • **Letter dated August 26th, 2010 to Board of Selectmen stating the planning board's**
65 **recommendation to accept Wood Duck Circle, Riverbend Drive, Montana Drive,**
66 **Pheasant Run and Mallard Lane as Class V public ways.**
- 67 • **Draft of letter to developers requesting update of the vesting status.** Chairman Green
68 explained that this is strictly a voluntary request to developers. A response deadline of
69 November 30th is in the letter. The board agreed to add to the letter that the planning
70 board is currently revising the subdivision regulations which will require this action in
71 the future. Mr. Keach briefly reviewed RSA 674:30 describing the vesting process.
- 72 • **Draft of letter to financial institutions for notification that all sureties, road bonds,**
73 **letters of credit, surety establishment, renewals etc. be sent to the town office to both**
74 **the office manager and planning board administrative assistant.**
- 75 • *Please note: A copy of each letter is attached to the original set of minutes on file in the*
76 *Town Clerk's Office.*

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78 **Sarkozy property in Riverbend Estates (Map 14, Lot 19-70) remediation and discussion of**
79 **Conditional Use Permit.**

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81 Tom Tombarello distributed copies of a letter received by the Board of Selectmen from Attorney Ratigan.
82 The letter is in response to the selectmen's inquiry regarding the need for a conditional use permit in the
83 cease and desist order. Board members took a few minutes to review the letter.

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85 Mark Traeger asked if the applicant disturbs wetlands when he goes to finish the bridge, what happens?

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Steve Keach replied that a CUP would be required.

Matt Russell stated that the letter makes no sense whatever. This would also suggest that if anyone decides they do not want to get a Conditional Use Permit they do not really need to. He stated " In my opinion the cease and desist is moot as far as the CUP is concerned. If Attorney Ratigan decided that a CUP was not in the cease and desist order that is fine. Wetlands were still disturbed therefore a CUP is required by our zoning and , in addition, letters are required from RCCD and KNA. The only thing that has been established by Mr. Sarkozy is an after the fact dredge and fill permit from the state of New Hampshire. If Attorney Ratigan wants to use that analogy that this is after the fact, why would the applicant need an after fact permit from the state of New Hampshire? If he doesn't need our local zoning, why would he need the after fact dredge and fill permit from the State?"

Mark Traeger stated the applicant didn't follow our zoning and the applicant created a wetland disturbance. The Selectmen put a cease and desist on the property and the owner cannot gain any revenue from that property until they come into compliance.

Matt Russell stated according to this then all a person would have to do is get an after the fact permit from the state and they would be done. That means our CUP has no teeth and there is no requirement for a CUP according to this letter. It sets precedence.

Steve Keach replied no, because the reason the cease and desist was issued was that the applicant failed to comply with the zoning ordinance.

Matt Russell asked "And what's in the zoning ordinance?"

Steve Keach replied the cease and desist instructed the applicant to comply with the plan.

Matt Russell stated the cease and desist was to take corrective action, remove the culvert, fill, cover same and install the bridge as indicated on approved and recorded subdivision plan. That was the only corrective action that was put on the cease and desist order. If they fulfill this and the Selectmen lift the cease and desist that is fine but they still have obligations to this Town to keep the rest of the zoning requirements which is the conditional use permit and letters from Rockingham County conservation District and Keach-Nordstrom Associates.

Mark Traeger asked "Doesn't he need a CUP to finish the bridge because how can he finish the bridge without disturbing the wetland?"

Steve Keach stated they can just put in a concrete slab. The abutments are already there. They were there when they put the culvert in.

Mark Traeger stated the abutments are in the wetlands.

Steve Keach stated the slab that you actually would drive over is not in place so the cease and desist order remains in effect. The cease and desist order basically says make it the way it was planned. When Mr. Vilella was in previously, he mentioned a report that needed to be filed in August. Once that closure letter is completed, he can do more positive work because all he has done up to now has been negative

133 work with the restoration. Mr. Keach stated he didn't think, from the conversations that he has had with
134 Mr. Villella and the State, that there is any intent to request that the Selectmen lift the cease and desist
135 order until the slab is on. He added that Mr. Sherwood would never issue a building permit to complete
136 the buildings because there is no safe access for emergency vehicles.

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138 Matt Russell stated that he asked Mr. Keach at a previous meeting "does this lot require a CUP?" He
139 stated Mr. Keach had responded "absolutely".

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141 Steve Keach stated that Attorney Ratigan called him for updated information on this project. Mr. Keach
142 said he told Attorney Ratigan that the restoration work was essentially done and that the slab had not been
143 installed. The question the Selectmen asked Attorney Ratigan is if a CUP was required in the cease and
144 desist order. Mr. Keach stated Attorney Ratigan has answered that the CUP was not required in the cease
145 and desist order nor was it required in the original subdivision approval. Attorney Ratigan had asked Mr.
146 Keach if the original approval for the building and development and creation of that lot required the
147 issuance of a CUP. It did not. Attorney Ratigan told Mr. Keach that he did not believe that a CUP was
148 warranted at this time.

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150 Matt Russell asked why the State required an after the fact wetlands permit.

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152 Steve Keach replied because it was for the restoration work only. They are doing work in the
153 jurisdictional wetlands. Whether it's positive, negative or temporary work the State requires a permit. It
154 is Attorney Ratigan's opinion that had there been permanent improvements concentrated within the
155 wetlands there would have been an encroachment, which would require a CUP.

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157 Mark Traeger stated there are two permanent improvements in the wetlands. There are now structures
158 there that were not put on the plan.

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160 Steve Keach explained that those abutments were to be built within the limits of the approved plan. If the
161 abutments are in the wetlands, it would be an encroachment.

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163 Matt Russell stated that in the DES letter dated April 11, 2008, which listed deficiencies, *item #4 Four*
164 *concrete slabs were noted within jurisdictional wetland identified in deficiency one . Note: A copy of this*
165 *letter is attached to the original minutes on file in the Town Clerk's Office.*

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167 Steve Keach said if vertical portions of that structure are situated in the jurisdictional wetlands, then they
168 would need a CUP to keep them there. The structures could be moved or they could get a CUP to allow
169 them to remain. Mr. Keach stated Mr. Villella is going to have to demonstrate by survey where the
170 abutments are located.

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172 Board members discussed sending another letter to the selectmen with the information regarding the
173 location of abutments within the jurisdictional wetland. Chairman Green agreed to draft a letter to the
174 Selectmen

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176 *Please note a copy of the letter from Attorney Ratigan to the Board of Selectmen is attached to the*
177 *original set of minutes on file in the Town Clerk's Office.*

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179 *The Board took a brief recess at 8:35 p.m. and returned to the meeting at 8:46 p.m.*

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Planning Board Budget 2011

Members discussed the proposed budget for 2011 as follows:

- Consulting – RPC dues are \$4,783.00 The board agreed to add \$3,000 to this line (\$7,000.00 total line item for 2010) to cover the time that Steve Keach spends consulting and his attendance at planning board meetings. The planning board is requesting a total of \$10,000.00 for Consulting in the 2011 line item.
- Mileage – This line is used to reimburse the Administrative Assistant for travel to Rockingham County Registry of Deeds. Due to the lack of applications, it was agreed that this line be reduced to \$150.00.
- Education – This line includes the NH RSA regulation books, spring and fall zoning conferences and law lecture series. It was agreed to reduce this line to \$805.00
- Master Plan Update – The State of New Hampshire mandates that each community update the Master Plan every ten years. The Master Plan is an important document that our zoning ordinance is based on. There are costs involved in completing the process and the board agreed to add a line in the budget in the amount of \$3,000.00 for consulting and visioning sessions.
- Grant Applications- RPC and the State of New Hampshire offer matching grants at various times throughout the year. It's important to have money available to submit a grant application when the opportunity arises. It was agreed to add a line in the budget in the amount of \$1,000.00

Dept Planning Board Account: 4191.1				
	FY 2010	FY 2011	FY 2011	FY 2011
Sub line Item	Approved	Requested	Bud. Com	Selectmen
Ads	1,000.00	1,000.00		
Consulting	7,000.00	10,000.00		
Copies	450.00	450.00		
Legal	2,000.00	2,000.00		
Mileage	300.00	150.00		
Payroll	22,429.68	22,875.84		
Supplies	400.00	400.00		

Education	1,430.00	805.00		
Master Plan Update		3,000.00		
Grant Applications		1,000.00		
Gross Expenses	35,009.68	41,675.84		
Revenue	12,000.00	12,000.00		
Net Expenses	23,009.68	29,675.84		
Payroll Detail				
	FY 2010	FY 2011	Est	Total
Positions	Rate	Rate	Hours	Pay
Planning Board Aide 13 weeks	18.06	18.06	312	5,634.72
39 weeks +2%	18.42	18.42	936	17,241.12

- 212
- 213 Copies: Copies are charged to us by the Selectmen’s Office at the end of the year. This
- 214 is our portion of the costs for copies
- 215
- 216 Consulting: RPC dues \$4,783.00
- 217 General Planning Board Consulting – KNA - \$2,000.00 (surety research) The
- 218 amount requested is to cover the time that Mr. Keach spends consulting on a
- 219 daily basis and his attendance at planning board meetings.
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- 222 Education NH RSA Regulations- 5 Books @ 65.00 = \$325.00
- 223 Spring & Fall Zoning Conference- 2 Members @ \$100.00 \$200.00
- 224 Spring & Fall Law Lectures –2 Members \$280.00
- 225 Fall Lectures Series has not started. New Zoning Books will be ordered in
- 226 December.
- 227
- 228 Payroll: Hours are based on an average of 24 hours per week
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- 230 Supplies: The planning board has authorized the purchase of a scanner for 2010. Toner
- 231 cartridges are on order.
- 232
- 233 Master Plan Update: The State of New Hampshire mandates that each municipality have an updated
- 234 Master Plan every ten years.
- 235
- 236 Grant Applications: Often times when grants become available there is a requirement to have
- 237 matching funds.
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- 240 Ed Mencis volunteered to assist in presenting the budget to the Selectmen on Monday,
- 241 September 13, 2010.
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- 243 *Please note: Ed Mencis left the meeting at 9:30 p.m.*

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Other Business:

- **Surety Release Procedure**
LGC has advised us that only the Planning Board is authorized to release surety money. The process for sureties is:

Planning Board receives original LOC (or other form of surety) from Bank:

- Distribute to Chairman and Keach-Nordstrom
- Place on agenda as **correspondence**
- Vet with counsel**

Once surety has been accepted.

- File with all other surety information.
- File in Development Folder.
- Add to PB spreadsheet **with** time sensitive tickler.
- Copy to Town Office Manager.
- Distribute revised spreadsheet to PB members.

Surety Release: Notice of Decision of Release and release letter to be signed by majority of board members.

MOTION: Tom Tombarello made a motion that sureties be released only by motion in a planning board meeting, notice of decision to be issued and release of surety letter to be signed by majority of planning board members. This is to be added to the rules of Procedure for the Sandown Planning board. Matt Russell seconded. Voted unanimously in the affirmative.

- **Sub-Committee Updates**

- **Master Plan Committee – Meeting scheduled for 9/22/10**
- **Zoning – Possibly bring back wetland ordinance for consideration.**
- **Subdivision Regs – Mark Traeger will e-mail the board with information and will discuss at another work session**

Adjournment

MOTION: Mark Traeger made a motion to adjourn. Matt Russell seconded. Voted unanimously in the affirmative. MEETING ADJOURNED AT 10:10 p.m.

287 Respectfully submitted,
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290 Bette Patterson, Administrative Assistant
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