

Planning Board
April 14, 2022
7:30pm

Members present: Barry Hantman, Chip Current, Steve Woitkun, Charles Underhill

Others present: Gail Turilli, Jim D'Agati, John Jalbert Jr., Steve Pascoe, Karl Dubay, Charlie Zilch, Jim Seaver, Carsten Springer

The Minutes from 3/24/2022 were reviewed. Barry noted that line 168 should be changed to "Colby Road is a State roadway at this point. No other changes. Barry **made** and Steve 2nd a **motion to accept the minutes as amended.** All in favor with Chip abstaining, **motion carries.**

5 Red Pine & Colby Road Subdivision & Site Plan Continuance:

Sub-Division Plan:

Charlie Zilch addresses the Board on behalf of the owner, Steve Pascoe. All Planning Board and Town Engineer comments have been addressed. DOT driveway permit has been granted and added to sheet 1. Existing well radii with easement is shown on sheets 2 and 3 and will support the full radius of the well. Driveway site line maintenance is shown on sheet 1 and the same note will also be included on the Site Plan. A meeting with the Conservation Commission was held on April 7. The waiver request and Variance's that were issued were reviewed. Conservation has no items of concern. The road agent has looked at the proposed driveway and has no issues. There are no objections to the waiver request from the town engineer. Soil type has been added to sheet 3. Additional monuments to be set have been added on sheet 2.

Site Plan:

All Planning Board and Town Engineer comments have been addressed. Driveway siteline maintenance has been added to sheet 1. The date the landscaping waiver was granted has been modified and added to sheet 1. Tie distance from the closest point of the building to the van accessible aisle has been added to sheet 2. A split rail fence, no higher than 2' has been provided between the limit of parking/access area and the limit of the right of way and is shown on sheets 2 & 3. A note regarding trash storage has been expanded to note that the trash will be private, curbside pickup and is shown on sheet 1. Conservation has reviewed the proposed plan and has no additional comments. A note has been added to address Fire Department concerns on sheet 1. NHDOT driveway permit has been granted and is shown on sheet 1. No objection to the waiver request from the Town Engineer. The proposed use as a professional office space building will not require any large vehicles entering or exiting the site. The access/parking area will accommodate the type of vehicles expected and is shown on sheet 2. The existing well within the gravel parking/access area is level with the existing grade, shown on sheets 2 & 3. The proposed infiltration trenches have been adjusted to capture parking area runoff on the southerly side of the parking area on either side of the building has been shown on sheet 3.

Steve Woitkun questioned people coming in as it is his understanding that this is going to be a private office with no traffic. Charlie noted that he is just trying to keep control of the proposed entrance to ensure that is the entrance that is used. Steve Woitkun also questioned the handicap/parking spaces on the plan. Chip stated per the ordinance, at least one handicapped parking space is required. Barry added that all parking noted on the plans is per the ordinance requirement. Steve Woitkun noted that the building exceeds 2000 sqft and would need be sprinkled and fully alarmed. Mr. Pascoe stated he has no intent of having the public in the building and has no plans on having a sprinkler system. Steve Woitkun questioned if this needs to be addressed by the ZBA and if a waiver could be granted. Chip explained that a variance would be needed. Barry mentioned that the building would be exempt if it was under 2000 sqft. Chip noted that per the ordinance, commercial buildings over 2000 sqft are required to have a sprinkler system. Mr. Pascoe stated he will conform to the town requirements. Charlie mentioned he will modify the note to meet the towns fire requirements. Chip suggested to meet with the Chief and Fire Wards to discuss fire protection and make sure notes are reflected in the site and subdivision plans. There are no comments from the Board or the public. Barry **made** and Steve 2nd **a motion to grant the waiver for Subdivision Regulation section III, D,3,c,24 requiring a 4,000 sqft receiving area. All in favor, motion carries. Waiver granted 4/14/2022.** Barry **made** and Steve 2nd **a motion to grant conditional approval for Site Plan & Subdivision with the following conditions:**

1. Note the date the waiver was granted
2. Setting of monuments
3. Fire suppression

All in favor, **motion carries. Conditional approval granted with the above conditions on 4/14/2022.** Chip noted that the conditional approval will be valid for one year.

Site Plan & Subdivision for Sapphire Woods Open Space Condominium, Map and Lot 4-46

Karl Dubay, representing Steve Pascoe of FTG Development, addresses the Board. This is a re-submittal of Site Plan and Sub-Division applications as conditional approval that was given by the Planning Board in January of 2021 has expired. All reviews, permits and plans are now in place. The project contains a town road about 1200 – 1300 ft long. It is approximately 72 acres containing 26 units on the site consisting of duplexes and singles. There is a generous amount of open space, about 3x the minimum required. ROW extensions will be deeded to the far side of the project in case needed in the future. A letter of support has been obtained from Conservation. Barry confirmed that all the abutters have been noticed. No changes have been made to the plans. Charles **made** and Barry 2nd **a motion to accept the application. All in favor, motion carries. Application accepted 4/14/2022.** No waivers have been requested.

Chip mentions there were 7 previous conditions that needed to be met and are as follows:

1. AOT permit amended
2. State Subdivision permit obtained
3. Road Bond addressed by BOS
4. Final approval from the Town Engineer
5. Signature blocks on recording sheets (12 – 17)
6. Recording fee's, which will be discussed at final approval

7. Condo Documents to be included with the plans and signed off by Town Counsel. Karl stated that the plans have been sent to Mr. Quintal to re-assess. Chip noted that the Bond from the BOS is needed for final approval but can be a condition for the conditional approval. Steve Woitkun question this being a town road as other condo's in town have private roads. Chip stated that the intention is for this road to be accepted by the town. Steve asked what the difference in planning is that grants a town maintained road vs a private road. Chip explained that the road would have to be built to town standards and it would be at the developers discretion to ask this Board if the town wants the road or not. Barry mentioned by deeding the road to the town, can't show that land as being part of the subdivision to get usage out of it. Karl stated that the road was pre-designed to be extended to other properties. Barry questioned having a site walk but, the board doesn't feel this is necessary. Barry **made** and Steve 2nd a **motion to waive the site walk**. All in favor, **motion carries**. Barry asked about fire suppression. Mr. Pascoe stated there will be a cistern on site and will widen the road going to the back house. This is shown on sheet 19. There are no comments from the Board or the public. There are 3 items the Board would like to have addressed prior to the next meeting and are as follows:

1. Update condo doc's with the current date
2. Updated engineer report with comments
3. Updated letter from the Fire Wards

This application will be continued at the next meeting on 4/28/22.

Preliminary Discussion with James D'Agati – Rental Space at 12 Olde Road:

Mr. D'Agati approaches the Board. He explains that he has a trucking business and is looking to rent a bay from Mr. Macomber at 12 Olde Road for the storage of one vehicle. He understands that this location is in the Highway Commercial/Light Industrial Zone. He needs to be able to come and go and occasionally leaves at 4:00am. One company that he works for hauls golf course sand. The biggest complaint with this lot has been operating outside the hours of operation. Chip explains that the site was approved with hours of operation for that lot. Operating the business outside of those hours are not allowed but, can be changed. For Mr. Macomber to lease one of the bays, there is a process that needs to be followed. A minor site plan review will need to be submitted as this would be considered a change of ownership. Hours of operation can be changed specifically for Mr. D'Agati's business. Barry mentioned that when the original site plan was proposed, it was on the border of the Highway Commercial Light Industrial and edge of that zone. Across the street is residential. If changing the hours of operation, the noise impact on the residential zone would need to be known. The original driveway that was to come in off 111A was withdrawn by the applicant due to state issues and resident opposition. Carsten noted a direct statement from District 6 that they would support the applicant provided he was working with the town. Conservation would support this fully if the town was on board. The applicant did such and the town was in support. At that time, 6 months later, District 6 changed their mind and pulled the rug out from underneath the applicant, went back on their word. This was completely unfair and unjustified.

Chip explains that NHDOT is broken up into districts that are in charge of the engineering, planning and maintenance of the roadways in those districts. Route 111A falls under District 6.

Steve mentioned a couple of weeks ago a subdivision was approved for Mr. Perry at 362 Main Street for 2 houses with no problems. Route 111A is a State Road. Chip stated that subdivision is Residential as opposed to Commercial and there is no other access. There is no town road those lots could have access from. In this case, Olde Road is a town road which can give access. Steve questioned with this Zoning, would it allow a manufacturing firm to operate 24hrs a day 7 days a week. Chip stated yes, provided there is an approval. If Mr. D'Agati moves forward, he will need a site plan application for a minor review as he is leasing space in an existing building and existing site plan. The Board will review the application and any changes need to be stated in the application. Mr. D'Agati stated that the start time would be the biggest issue and that most of the trucks are pre-loaded. Chip mentioned that emergent situations are generally excepted. Charles noted that part of the request for changing hours would be an impact statement including expected schedule, and description of the properties impacted. Mr. D'Agati stated that Saturdays will be just a maintenance day. If the site plan application is received in a timely manner, this will be on the Planning Board agenda for the May 12 meeting.

Stage Coach Estates Road Bond:

John Jalbert, Jr addresses the Board on behalf of his father. He comes before the Board requesting approval for erosion control, stripping loam, etc. Driveway permit is already in place. Originally a bond reduction was to be discussed but, not at this time. Chip noted that the bond has already been accepted by the BOS and work may commence. There will be periodic inspections done by the Town Engineer.

Other Business:

Chip mentioned that he is delayed with the CIP. He has received comments back from Chief Wade Parsons and will reach out to the Road Agent and ACO.

Carsten mentioned that Conservation met on April 7 to discuss the 362 Main Street subdivision and that there were no specific concerns as the applicant has kept all construction elements outside of the wetland setbacks. One out of the ordinary item of special concern is that this property and abutting properties, as well as properties well removed upstream and downstream of the rear of the subject property, are subject to significant flooding caused by beavers. This condition is a threat to both town and state roads, as well as property owners living downstream. He suggests adding deed language regarding beaver control and measures for removal of dams, etc. His suggestion is as follows: "The right of access to pass and repass in perpetuity granted to the Town of Danville, it's agents, heirs, or assigns, for the purpose of beaver control review and measures. This shall include the right to install beaver control and overflow control devices, to remove dams, and/or to remove or trap beavers in accordance with State law. Out of consideration for the property owner, notice shall be given except in the case of emergency". There are 2 dams upstream and 3 downstream that probably have 25ft overall and 60 acres of water above that. Chip mentioned damage to properties on Long Pond Road, may take out the dam on Cheney Lane and is significantly damaging the Town Forest. This language will help future developments have a town build or maintain this infrastructure legally. Right now, permission is needed from the land owner. Carsten stated that currently the landowner has no obligation to do anything and this would give the town the right to go on to that property and

deal with the situation that is affecting other people well removed from that particular property owner. In the RSA's for protection of beaver, there are specific rules and has the ability for the director of Fish & Game to issue a special permit to take care of these situations. This hasn't been done since 1973. The clause hasn't been used as they don't want to be responsible. A recommendation was made to speak with Kimberly Burnham and town counsel for review.

Charles asked by creating the right to access, are we taking on a presumed liability where we could be held accountable for damage not addressed in a timely fashion. There is an issue if crossing multiple towns, and he suggests pushing this issue up to the state. Carsten stated this has been done about 4 years ago and the state was unresponsive. It puts this in a local control situation. Charles noted that local control across different town boundaries is a problem, not coordinated and asked if this has any sort of continuation. Carsten mentioned that it is in the watershed and certainly crosses town boundaries. Charles asked to try from an administrative level and bring the issue to different departments within the state. Carsten stated this has also been done. Charles noted to try on a legislative basis and bring to the local representative. Carsten stated this is a private property rights issue which is addressed in the state constitution. Fish & Game have clearly stated their position. This is why the issue is being addressed in a deed. Private property rights are in the chain of title. Chip mentioned that there are a number of lots in town that don't have this deed language that have a problem and how this can be addressed. Carsten noted the state highway department, District 6, advised him to bring this issue back to the town and address with Town Hall. Chip stated the issue can't be addressed, only with deeds going forward. Charles stated if the local representative is contacted, make it a broader issue that either gets addressed legislatively or legislature sits with the Governor to have the state assign this to an administrative department to get it resolved. The issue can't be solved if crossing other town boundaries. Carsten mentioned this has already been addressed in Statute. Chip noted that if all of the water is let out of the town forest, it will cause an enormous problem. Chip feels it is important to add this deed language going forward for properties at risk for this problem. It makes more sense for Forestry and Conservation to look at what can be done for pre-existing lots that don't have this condition on them. Carsten noted that it's not in the statute for Forestry and Conservation but, would be if Charles is willing to take this to the legislative level. Carsten noted that he will bring this to town counsel for review and will ask questions regarding liability as it will be much greater if nothing is done. There was further discussion regarding the culverts under 111A and Happy Hollow Road and also the dams on Blake Road, Kingston Road, Pleasant Street and Main Street. Jim Seaver mentioned that District 6 is willing to help with the situation on Main Street. He also mentioned that there is one property owner who likes his waterfront property but, doesn't realize the beaver issue and some properties having dug wells which could become contaminated. This is not only an emergency for roads but, for people's property and possible public health issues. Barry suggested to address town counsel to which Carsten confirmed he will do so.

Charles **made** and Barry 2nd a **motion to adjourn**. All in favor, **motion carries**. **Meeting adjourned at 9:40pm**

Agenda for next meeting:

1. Continuance of Sapphire Woods Site Plan & Subdivision

- 229 2. Final approval for 87 Sandown Road, Senior Housing Complex
230 3. Preliminary discussion w/Breyer Hall for leasing space at 12 Olde Road for a
231 machine shop
232 4. Preliminary discussion w/Erica Halaby for possible development on 134 Sandown
233 Road
234 5. Preliminary discussion w/Paul Riley for Map & Lot 4-206, Hunt Road
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238 Respectfully

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240 Gail Turilli