

MINUTES
PLANNING BOARD
August 17, 2022
In-person/ Zoom

Present: Deirdre Daley (Chair) -in person, Josh Muhonen (Vice Chair) - in person, Shawn Talbot (Ex-Officio)-in person Craig Smeeth- in person, Tim Somero –in person, Ray Somero- in person, Lou Guarino- via Zoom, Jennifer Minckler-in person.

Citizens in attendance: Ed Rogers of Rogers Engineering-in person, Bob Boynton- Conservation Commission Chair-in person, Sarah Vaillancourt-in person, Andrew Vaillancourt- in person, Jim and Amanda Perigney- via Zoom, Yvonne Vaillancourt- via Zoom, Sharon Smeeth-via Zoom

Roll Call vote taken by Dee who appointed Lou Guarino as a voting member for this meeting.

Selectmen/Chair/Land Use Report: Shawn Talbot reported that the Finance Advisory Committee will be conducting a meeting with all department heads individually who will then present to the Select Board for the budget. Shawn asked the Planning Board if FAC should compile CIP request at the same time to also present to the Select Board. Dee opened up the invite to those on the FAC to join the Planning Board to collect data for the next year, within the scope of the CIP which extends 5-10 years.

The Land Use Clerk reviewed a revised decision letter template with the Planning Board for approval. A paragraph was added to the bottom of the decision letter from the subdivision regulations regarding a 90 day requirement of all conditions to be met once the decision letter was provided to the applicant. It would assist the applicant and the Planning Board as to the timeframe and ability to revoke the application if conditions re not met at that time. The Planning Board was in favor of adding that paragraph to the decision letter.

Dee discussed the webinar that reviewed the new laws taking affect for Land Use Boards August 23, 2022 and January 1, 2023. The change of Section 73: Written findings was discussed among the Planning Board and an open question that we can seek clarification regarding if the applicant pays for for the Attorney fee of the review. The Land Use Clerk will reach out to NHMA for confirmation.

The property that was the involved in the application for subdivision for owner Jon Somero and applicant TFF Realty, LLC. has now been sold and the conditions have not been met. Per the subdivision regulations, the applicant has 90 days once decision letter has been sent. The NMHMA attorney was consulted by the Land Use and they advised we need to revoke reminder notices do not change the requirement, especially when there was no follow up communication by the applicant. There is a utility easement that was recorded referencing this subdivision. The Attorney advised that that is not a Town issue. The Planning Board continued discussion of the 90 days' timeframe as well as the new laws of the Planning Board timeline Section 75 which do not affect this matter. Brook Haven subdivision application is also in a similar position but have been in contact with the Board and have met some of the conditions.

Shawn made a motion to revoke the subdivision application approved with conditions on 7/7/2021 for Jon Somero TFF Realty, LLC Map 13/34 Ashburnham Road. Motion seconded by Josh. Roll call vote. Motion carries.

Dee mentioned Brook Haven as they want building permits. The application for Brook Haven Farm, LLC was approved with conditions on 7/2/2021. Josh asked what we are waiting on which is the revised plans and the shared driveway agreement. It was found that a foundation was put in and not known if a permit was provided. The Planning Board determined that the Code Enforcement officer is to be notified to visit the property. Brook Haven is to be contacted tomorrow by the Land Use Clerk to advise they have 1 week to provide the driveway agreement.

Dee had nothing to report but did ask Bob Boynton to provide an overview of Conservation properties to assist member understanding of Conservation properties. He explained that the Conservation Commission acquires land in two ways. It is dedicated to the Conservation Commission or is bought by the Commission. If owned by the Conservation Commission, a third party such as Monadnock Conservancy is responsible for protecting the property. Neither the Town nor the Conservation Commission has the funds for legal action should there be a violation of that property. For an easement, a third party does handle but the Conservation Commission takes a secondary easement and the Conservation Commission provides the funds should the protecting organization become defunct. Both the Conservation Commission and the third property monitor the property. Ray asked if using land for recreation and hurt themselves the Town would be protected? Bob advised if there is a cross country trail and not groomed we would be liable. Bob explained the concept of an attractive nuisance, where someone is attracted to a feature that may not be safe, the Town is liable. Shawn advised that these matters are Conservation Commission considerations and should not weigh on the Planning Board decision for the subdivision being heard. This has no bearing on the Planning Board approving or disapproving a subdivision that is proposed where conservation land is not being dedicated to the town.

Minutes of August 3, 2022: Minimal changes were made. Motion to accept the revised minutes. Motion made to accept the minutes by Ray. Motion seconded by Josh. Roll Call vote. One abstention due to absence. Motion Carries.

7:30 Public hearing- Continuation of the Public Hearing for Tridam Energy LLC, 94 River Road Map 12 Lot 86 and Kathleen Blease 230 Old Country Road Map 12 Lot 95A, 2 lot subdivision/Lot Line Adjustment.

Craig Smeeth recused himself as he is an abutter to the property. Ed Rogers provided the revised plans for the Planning Board to reference as Dee presented the list of changes required from the last hearing. All outstanding issues were reviewed. Dee opened the meeting for public questions. Craig Smeeth addressed his concerns of safety with the penstock and valuation of surrounding property as well as parking. Craig's wife Sharon was in agreement. Jim Perigney is also in agreement and safety is his primary concern. Yvonne Vaillancourt echoed the concerns of safety and hopes the Town has a plan to address those things. Sharon Smeeth mentioned liability being a concern for her. Bob Boynton stated that these concerns are under the purview of the Conservation Commission and those with concerns should come before the Commission to address those concerns at a public hearing.

Andrew Vaillancourt advised that this is private property and if the Conservation Commission does not accept the dedication, the property will still be as it is today. Ed Rogers confirmed that the owner would post the land if the Conservation Commission does not accept the dedication. Yvonne has no issue with the lot line adjustment but asked for confirmation of the plan. Ed Rogers advised that the plan presented has a complete boundary survey of the Tridam and Blease property and shows a portion that Dixie Blease will be buying and merging with her property. Ed verified Yvonne's question on that. Yvonne also asked about a wetland delineation would that identify what is non-buildable. Dee advised there is amount of land non-buildable on wetlands but there is a place that could have a house built but the request proposes it become non-buildable conservation land. Andrew mentioned the well on the property of Tridam that ties to his father's house. Ed will add a note on the final plan that the well on Map 12 Lot 86 is connected to Map 12 Lot 89A .Tim confirmed with Andrew that the well is still active.

Motion to close public hearing made by Ray. Motion seconded by Josh. Motion carries.

Motion to approve the application with the following conditions by Josh. Motion seconded by Shawn. Roll call vote. Motion carries.

- Mylar(s)
- Fees
- Note on the plan that the well on Map 12 Lot 86 is connected to Map 12 Lot 89A

Old/New Business: Lou asked about the new law Rule 73-written findings and the need to verify the cost for the Attorney. The Land Use Clerk will contact NHMA. The mention of Section 71-Publications of Fees and the different fees that are variable are also advised by NHMA to be on the Fee list. It was suggested by Dee to list the Attorney fee as hourly.

Shawn questioned why the Select Board needs to approve the dedication of Stowell Road. Tim explained that the land owner had the insight to see that if Stowell Road ever needed to be improved they needed to go beyond the walls, easements were built in on both sides and the deed will already have that in place. Tim wanted it noted in the minutes that the Town already owns Stowell Road so no need to re-accept that but that the Selectmen would consider the expansion.

Motion to adjourn by Josh. Seconded by Tim.

Meeting Adjourn at 9:57PM

Respectfully submitted,
Jennifer Minckler
Land Use Administrator