

PLANNING BOARD MEETING
JANUARY 21, 2015

PRESENT: Ed Dekker, Chairman, Liz Freeman, Bert Hamill, Tim Jones, Woody Meiszner, Joanne Meshna, Attorney Gary Kinyon

The meeting was called to order at 7:00 p.m. at the Town Office. Joanne was appointed to fill Ned's vacancy.

The minutes of January 7, 2015 were reviewed and the following corrections made: page 1, first and second lines under the public hearing, change to read "Liz stated she would like to simplify the amendment by replacing the entire amendment with a single change. The change would be to remove the requirement..."; page 2, second paragraph, change (LCO) to (LCD) and throughout the document. Bert made a motion to approve the minutes as amended. Tim seconded the motion and it passed with Woody abstaining.

Public hearing on amendment to the Zoning Ordinance on clusters: The amendment is the same as was presented at the hearing on January 6, 2015. Bert made a motion to approve the amendment and forward it to the Town Clerk to be placed on the 2015 Town warrant. Liz seconded the motion and it passed unanimously.

The Board drafted the language for the warrant article as follows: Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the New Ipswich Zoning Ordinance as follows: to amend limitations on open space in a Cluster Development by eliminating the requirements restricting the open space to no more than 50% of any combination of wetlands and/or steep slopes?

Public hearing for amendment to the Zoning Ordinance on accessory dwellings: The amendment is the same as was presented at the hearing on January 6, 2015 with the bolding removed. Liz made a motion to approve the amendment and forward it to the Town Clerk to be placed on the 2015 Town warrant. Bert seconded the motion and it passed unanimously.

7:30 p.m. USA Properties, Inc. – Continuation of public hearing for a 47 lot subdivision:

Ed noted that both Ned and Paul had e-mailed their opinions on the waiver request submitted by Mr. Simpson for the hearing on USA Properties. Attorney Kinyon advised that members should not form an opinion until the public hearing and the subject is discussed. The e-mails were not put into the record.

The applicant last appeared before the Board on November 19, 2014. Mr. Simpson submitted a waiver request for the dead end road limitations. In his letter to the Board he stated if the waiver request is denied for the dead-end road limitation, he requests the Board decide the issue of whether they are entitled to proceed under the temporary dead-end road provision.

Ed asked why the applicant was asking for a waiver for 1,000 feet when the road is starting more than 1,000 feet up a dead-end road. Mr. Simpson responded it was their understanding that the regulations are referring to a development where roads are being created, not the length of the road that already exists. Liz asked if it was their understanding that the measurement should only be applied to a new road being created and Mr. Simpson responded that only made sense because the regulations have to do with creating roads within a subdivision. Woody asked if the waiver request is only for the internal roads and Mr. Simpson answered it was only for the roads being constructed.

Liz asked the applicant's understanding of the purpose for limiting the length of dead-end roads. Mr. Simpson stated it was to reduce the amount of space in a subdivision where there is only one access out. Liz asked the applicant's understanding why there would be a limit to the length of road that has only one access. Mr. Simpson responded to have a limited length of road in a subdivision where you can only get out one way. Ed asked why it would be different for a road within a subdivision if the subdivision is being built off a dead-end road and Mr. Simpson answered that the regulations refer to building a road in a subdivision. Liz questioned if it was the applicant's interpretation of the regulations that a dead end road should be no more than 600 feet refers to a dead-end road within a new subdivision. Mr. Simpson replied it was because the other way any dead end road longer than 600 feet would not be able to be developed at all because it is already on a dead-end road 600 feet long. Ed stated then another subdivision could go at the end of that 600 foot dead end road and extend the road another 600 feet. Mr. Simpson responded it would be a private road inside the subdivision.

Liz questioned when the applicant is talking about temporary dead-end roads someone could come along and put another private road at the boundary of their subdivision off what they are calling a temporary dead-end road. Mr. Simpson replied that the temporary dead-end road provision is a way to link up road networks when future development happens. Mr. Holden added that some towns have mapped streets and a developer follows that map. Liz inquired if there was a RSA that says the Planning Board is required to have a road map and Mr. Holden replied he did not know but common sense says the Planning Board should be planning. Liz asked if the applicant was aware of the RSA for premature and scattered and why that would exist, and Mr. Holden responded if the Town had a plan to road network they would be dealing with that.

Bert noted that the definition of a dead-end road is the crux of the matter and asked if Attorney Kinyon could provide that.

Attorney Kinyon reviewed what had been discussed at the previous meeting. At the November meeting relative to the dead end street issue there were two provisions discussed under which USA Properties could seek to install the dead-end streets. The only provision they have sought is to have the dead-end streets installed under the temporary dead-end provision which is Appendix B:02 F. which states temporary dead-end streets, where future extension to another outlet is approved by the Board, or where indicated on the subdivision plat, may exceed six hundred feet in length. In such a case, the full width of the right-of-way to the subdivision property line shall be dedicated to the Town of New Ipswich. At the November meeting the position of the applicant was that was what they were presenting to the Board and that should be approved. Based on the other discussion of the dead-end provision Attorney Kinyon suggested the applicant had nothing to lose by applying for a waiver from the dead-end street

provision. They have applied for the waiver but done so without prejudice to argue if they do not get approval on the waiver they still are entitled to approval on the temporary dead-end road provision. The first thing the Board should do is consider the waiver application from the regular dead-end street provision. If the Board denies the provision, then the Board should vote on whether the application satisfies the temporary dead-end provision. If the waiver request from the regular dead-end provision is denied and if the Board votes that the application does not meet the requirements of the temporary dead-end provision, they will most likely appeal the decision to the Superior Court before going further with their application.

Bert asked Attorney Kinyon if Stowell Road is a dead-end road or not. Attorney Kinyon responded that in the regulations for permanent dead-end roads, permanent dead-ends shall terminate in a turnaround and the length of the dead-end street shall not exceed 600 feet unless an alternate distance is determined to be appropriate by the Planning Board. He noted there is no definition of a dead-end street and absent that definition the Board is entitled to form a definition based on common usage and meaning of the term. The Board should decide what the waiver request is for, what is the distance of the dead-end road, and where it starts and ends.

With regard to the common usage of a dead-end road, Attorney Kinyon, for purposes of comparison, referred to the Keene subdivision regulations. They define a dead-end street as a street or a portion of a street or a system of streets with only one point of ingress or egress from a continuous street network. He understood that to mean you have to start where there are two roads that meet the street and then measure to the end of the dead-end street. It is important to know where the applicant understands the dead-end streets start and end for the purposes of the waiver.

Bert stated he had done some research on dead-end roads and simplified it is the same way out as same way in and that starts at Stowell Road. The length is moot; it is still a dead-end. The Board should either grant a waiver or no waiver at all because Stowell Road is a dead-end. The reason dead-ends are of concern is for safety but no-one has talked about the actual statistics of safety on a dead-end. There are two issues--what are the risks to the inhabitants, and what is the risk that the road will be blocked during any particular time frame. The length of the road is not the issue and not on any arbitrary road. Attorney Kinyon replied that the Board needs to know the length of the dead-end the applicant is proposing in order to address the waiver. Bert continued he had looked at the road characteristics of Stowell Road and what has happened on the road. There is a 6% chance the road will be blocked by snow and ice in a year, chance of trees falls, wild fires, and traffic blockage but when all the probabilities are added up, there is a .3% chance per year of there being an unrespondable life situation for this subdivision.

Attorney Kinyon asked the applicant for clarification of the distances. Mr. Holden responded that for the most southerly entry road the access point for the beginning of the dead-end starts at Stowell Road at the beginning of the access road and the end of the measurement of the dead-end is at the point where the loop of the cul-de-sac starts. This is a distance of 600 feet. On the large loop, the distance is 1,000 feet, measuring from Stowell Road at the beginning of the access road to the point that the access road starts its loop. The distance from Stowell Road to the far end of both access road loops is 1,100 feet on the small one and 2,200 feet on the large one. The Class VI part of Stowell road is approximately

300 feet. Attorney Kinyon noted from the 2010 engineering study, the distance from Green Farm Road to the second access road is approximately 5,100 feet. The distance between the two access roads is approximately 1,100 feet.

Attorney Kinyon noted it is extremely important to determine the definition of the dead-end road, the beginning point and ending point, as the longer the dead-end is, the larger the scope of the waiver. The Board has to make a determination of the length of the dead-end roads being proposed and then consider the waiver request and the standards to apply. Under the regulations in effect the maximum length of the dead-end road is 600 feet and an applicant must seek a waiver to go beyond that length; the applicant wants a waiver from the 600 foot limit. Further, Attorney Kinyon stated the waiver is addressing the waiver standards under NH law 674:36 II. and states the Planning Board can only grant a waiver if the board finds, by majority vote that: (1) strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations; or (2) specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and the intent of the regulations.

Mr. Simpson stated the regulations are there to regulate streets created by a subdivision applicant. The regulations state a dead-end street shall not exceed 600 feet unless an alternate distance is determined by the Board; the Board can determine if some other distance is appropriate.

The Board deliberated:

Ed stated he had done some research and referred to an abstract by the National Association of City Transportation Officials. This was a study of 56 Californian cities and 19 cities nationwide and their regulations on dead-end road length. The most common limit is 500-600 feet. Eight of the 75 cities had no length limit, one had 1,500 feet. From this study limiting the dead-end limit to 500-600 feet is common. Woody pointed out that the ITE recommends that the maximum length of a cul-de-sac should be 1000 feet, and serve a maximum of 20 dwellings. Another study is of dead-end road lengths in Massachusetts cities and the common length is around 500-600 feet. In the study it describes how some of the dead-end roads are measured and many are like Keene or are defined by multiple access points into a road network. Limiting road dead-end lengths is a common practice and a good practice for Planning Boards. Ed stated in this case the dead-end road length is in excess of 7,000 feet and the requested waiver should be denied.

Liz stated the definition of a dead-end road starting at where there are two ways in and out is a reasonable one. At a minimum she considered the beginning of the dead-end road from the beginning of Green Farm Road to the beginning of the loop in both cases. Ed added he would add the loop as it increases the number of homes on the dead-end and the more homes there are the more likely there will be accidents and blockages and need for emergency services, etc. Further, he stated the ITE recommends that the maximum cul-de-sac should be 1,000 feet and serve a maximum of 20 dwellings. Woody added if the Board defines a dead-end road as starting at Green Farm then it is 7,000 plus feet to the end of the road for this application.

Bert suggested adopting for this discussion the Keene definition of dead-end roads. He made a motion to accept the Keene definition for the purposes of this discussion of dead-end roads. Tim seconded the motion and it passed unanimously. Attorney Kinyon read the definition which states that a dead-end street is a street or a portion of a street or a system of streets with only one point of ingress or egress from a continuous street network. Bert made a motion that the intersection of Green Farm Road and Stowell Road is the starting point of the dead-end leading into the subdivision. Liz seconded the motion and it passed unanimously.

Attorney Kinyon asked the applicant if the traffic study submitted in 2010 addressed any traffic safety issues of the dead-end street. Mr. Holden responded the study stated the research does not find any statements that say a dead-end street of any particular length is unsafe. Attorney Kinyon noted it was important to the Board to know what the traffic study stated as they consider the waiver. The study has not been looked at in five years and needs to be considered again.

Liz made a motion to continue the hearing to February 4, 2015 at 7:30 p.m. at the Town Office. Bert seconded the motion and it passed unanimously.

Mr. Simpson agreed to a 90 day extension on the subdivision application.

The Board suggested the Fire Chief review his recommendation from 2010 and update it if necessary. Joanne will contact Chief Leel.

Warrant article for accessory dwellings:

The Board drafted the language for the warrant article as follows: Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the New Ipswich Zoning Ordinance as follows: to allow the use of an accessory dwelling unit which is associated with a one family home and is located within a barn or garage on the same property? Ed made a motion to accept the language for the warrant article. Bert seconded the motion and it passed unanimously.

Woody announced that the Tennessee Gas Pipeline will be holding an open house on January 27 at Hampshire Hills and on February 3 at Hidden Hills in Rindge.

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Joanne Meshna
Land Use Manager

