

MINUTES  
PLANNING BOARD  
October 2, 2019

Present: John Schaumloffel, Chair, Liz Freeman, Vice-Chair, Bert Hamill, Lou Alvarez, Lou Guarino, Craig Smeeth, Paul Termin and Debbie Deaton

The meeting was called to order at 7:00 p.m.

John asked Craig to sit in for Deirdre and Lou G to sit in for Nate. John introduced Scott Butcher, Town Administrator in the audience.

The Board reviewed the minutes of October 2, 2019. Liz asked Debbie to add she left at 8:20 pm to the minutes. Lou made a motion to approve the minutes as amended. Bert seconded the motion and it passed with 1 abstention (Liz).

**Jacqueline Drive/Green Farm Road:**

John recused himself as the Chairman (sat in the audience) and asked Liz to preside over the conversation. Liz asked Mr. Litchfield for an update then deferred to Bert to start the discussion. Mr. Litchfield stated Holden Engineering has installed the stone bounds on Jacqueline Drive and Green Farm Road. The as-built plans are being worked on and should be available by the end of next week. The aprons on 6 driveways will be finished by next week. Bert asked if he had a signed contract for the aprons. Mr. Litchfield responded he had a subcontractor agreement with the paving company. Bert stated *if* all of the items are finished, it would satisfy all of the punch list items. Liz asked Mr. Litchfield if the driveway aprons aren't finished next week, what the recourse of the Planning Board would be. Mr. Litchfield stated he was guaranteed the aprons would be finished. Paul asked if all of the items are finished, would the bond be released. Bert responded Mr. Litchfield would have to ask the Board to release the bond after the final inspection is completed by Peter Goewey. The Board would then recommend to the Selectmen the bond be released. Mr. Litchfield asked if the road would be accepted at that point. Bert replied the HOA would have to petition the Selectmen to have the road accepted by the Town but there is no guarantee of acceptance. Paul stated all maintenance (trimming trees, plowing roads, cleaning catch basins, etc.) would become the responsibility of the HOA once the bond is released. Bert confirmed this. Paul stated the HOA could contract with Mr. Litchfield for maintenance if there was an agreeable contract between them.

Mr. Litchfield asked if the history of the Selectmen would be to accept the road. Bert replied historically, the Town has not accepted a lot of roads. He continued stating part of Green Farm Road has already been accepted so hopefully the remainder of Green Farm & Jacqueline Drive would be accepted but he can't speak for the other Selectmen or for the Town.

Sam Benedict, 53 Jacqueline Drive, stated there is a catch basin in front of 55 Jacqueline Drive that has partially collapsed and was supposed to have been repaired by Mr. Litchfield. Bert stated he had inspected that culvert and does not believe the repair should be on Mr. Litchfield due to the fact it has been modified by other individuals. John Schaumloffel, 55 Jacqueline Drive, stated the pipe that goes into the catch basin comes from his home and is on the drainage plan that was submitted to the Town when the house was built. He went on to say it was stable when he purchased the house and when the base coat was applied to the road. The collapse occurred when the cement was poured around the drain and the topcoat was applied. Paul asked if the HOA had funds to repair this. Liz stated eventually, the HOA will be responsible for the maintenance of the road. Paul added the HOA should start collecting funds for the maintenance of the road.

Allison Monaghan, 125 Green Farm Road, asked who was part of the HOA. Bert replied it is not in the Planning Board's purview to know who is part of the HOA.

Carolyn Cormier, 101 Green Farm Road, questioned the timeline on release of the bond. Bert said once Mr. Litchfield requests the release of the bond and the road is inspected to the Town's satisfaction, the Selectmen could potentially release the bond within a month. Bert went on to say the HOA should petition the Selectmen as soon as the bond is released. The HOA should also have a backup plan and write up a warrant article for the Town to accept the road, in the event the Selectmen do not. Debbie informed Carolyn the latest date to submit a petition warrant article is January 14. Carolyn stated their HOA documents state Mr. Litchfield will be responsible

for the maintenance of the road until it is accepted by the Town. Mr. Litchfield stated his company did not write the HOA documents. Bert stated this is a gray area and the HOA should probably seek legal counsel regarding this. Carolyn said the HOA's understanding was the agreement transferred from the original developer to Mr. Litchfield's company. She went on to say the HOA would like to collaborate with Mr. Litchfield regarding the maintenance of the road until it is accepted by the Town. Liz said it would behoove the HOA to move as quickly as possible regarding acceptance of the road.

Bert asked Mr. Litchfield to speak to Peter Goewey about the signs he had ordered and the installation of them. Alex Scribner, 57 Jacqueline Drive, stated the road markers should have been flush with the grade. Bert said he saw them and they are not flush. The markers should have been broken. Mr. Litchfield asked how many bounds were too high. John Schaumloffel responded they all are. A member of the HOA will email Debbie with a list and she will forward it to Mr. Litchfield. Brad Brock, 40 Jacqueline Drive, stated the company is using the wrong equipment to set the bounds. They should be using a hammer. Mr. Litchfield said he will have the bounds set correctly when he receives the list.

John Schaumloffel stated he is disturbed by the status of the catch basin and asked what the best correction for this problem will be. Bert replied it depends on what is causing the collapse. John showed a picture of the catch basin prior to the installation of the topcoat in which the basin had not settled or collapsed. Mr. Litchfield said the pvc pipe going into the catch basin was installed without permission. John said the pipe was in the drawings for his house. Mr. Litchfield said he would take a look at it and try to help out.

Sam Benedict said there is a ton of water coming out of the woods into that drain. He cleans it constantly so it doesn't become blocked because when it does, it becomes an ice rink in the winter. He stated it will be the responsibility of the Town when the road is accepted. Liz said there is no guarantee the Town will accept the road. Carolyn will forward the HOA agreement to Debbie so the Board can view the document. Liz stated it sounds like a civil matter regarding who is responsible for the maintenance until the road is accepted.

Liz asked Mr. Litchfield if he had any plans for continuing Kennybeck Court. Mr. Litchfield said the property is on the market at this time. It is not on his agenda in the next year but not out of the question. The property needs to be built. Liz stated she wants to make sure Mr. Litchfield would make any prospective buyers aware no building permits would be issued and a road bond would be required. Mr. Litchfield said he would.

Liz relinquished the Chair back to John.

#### **Selectmen's Report:**

Bert told the Board budget season is upon us. The Planning Board's budget will be heard on November 19, 2019. The Selectmen inquired about the progress on the Commercial District. There is the potential sale of the old highway garage property.

Bert deferred to Scott regarding GIS mapping done by the Nashua Regional Planning Commission. He said Selectman Lage was impressed by how much the NRPC does for communities at little or no cost to the town. Debbie will call SWRPC to find out if they offer the same services. John mentioned Fitchburg State and Keene State also have programs for GIS related projects for a fraction of the cost of a professional company. Bert mentioned he was trying to work with Bob Boynton (Conservation Commission) for help with the maps.

Bert mentioned SWRPC needs a volunteer board member from the Town. Lou Alvarez and Paul Termin had some interest.

#### **Chairman/Land Use Clerk Report:**

John told the Board the Commercial District discussion has been put on the back burner for now due to all of the other topics being dealt with by the Board. Debbie will email the maps with all Town owned properties highlighted to John, Bert and Scott.

He also mentioned the Land Use Conference he and Craig Smeeth attended was very informative. Liz asked to share the information on a future agenda.

October 23, 2019 at 8:30 am, Steve Griffin, NH State Gravel Tax Appraiser will be at the Town office to discuss Gravel pits. Steve, Deirdre and Lou A. will be inspecting the active pits in Town after the informational session.

### **Public Hearing-Glavey Cell Tower:**

John opened the public hearing citing the list of discussion items as follows:

The Board approved the waiver for the height waiver.

If a light becomes required for the tower, it will be a remote/aircraft activated light. Mr. Parisi they don't anticipate needing a light but this condition would be agreeable.

Drainage- Bert spoke with Kent Brown regarding the revised drainage plan and the new proposal is satisfactory. The depth of the stone around the pad was increased from 4" to 6", reducing the amount of runoff into the road. The rip rap coming down the side of the road was not needed because the runoff would not exceed 5 feet per second. The 18" cross culvert from Old Peterborough Road was reworked, showing inverts and sufficient covers.

Removal bond draft- The bond will be the amount of removal cost (\$25,000) plus a percentage. Bert stated we don't want the applicant to have to come back year after year to increase the bond and asked the life expectancy of the tower. Mr. Parisi said they anticipate 50 years. He went on to say a lot of towns add 10% to today's cost and then Vertex would send a letter with a new bond amount every 5 years with an escalation factor of 10%. Bert estimates the bond should be approximately \$35,000 for the first 5 years. Scott Butcher said that would be reasonable. Mr. Parisi said he would agree to \$28,000. Liz asked exactly what would be removed. The estimate assumes gravel driveway, utility poles, utility conduits, grounding ring, concrete foundation and drainage features will remain. Mr. Parisi said this would be between the owner of the property and Vertex.

John asked if the utility poles will be standard creosote coated poles. Mr. Parisi responded they would be.

Paul asked if Town Counsel has read the bond letter. Mr. Parisi stated he cannot get a bond for longer than one year. If for some reason the bond is terminated, Zoning enforcement can require them to get a new bond or take the tower down. John asked Debbie to forward the bond letter to Scott so he can send it to Town Counsel.

Paul asked if there would be generators on the site and wants to make sure the generators do not violate our noise ordinance. Liz stated generators would probably be in use only during emergencies so it shouldn't be a major issue.

175' No-Cut Zone- Mr. Parisi stated the Easement covers the Board's request to make sure subsequent owners are aware of the No-Cut Zone around the site. Mr. Parisi added the landowner is agreeable to it. Debbie stated she spoke to Steve Buckley asking for verbiage. Mr. Buckley stated the recorded Easement should have the Book and Page of the recorded deed of the current owner, name and address of the current owner, conditions of the easement and the following verbiage..."the current owner cannot release this restriction without written consent from the Planning Board". Mr. Parisi said he agreed with the conditions. Mr. Parisi stated he will not record the Easement until he applies for the building permit and would assume it would be a condition of receiving the permit. John asked Debbie to send this information to Mr. Parisi so he can add it to the Easement Deed.

Liz asked what happens during the removal of the tower in regards to any damage to Old Peterborough Road. Bert replied any damage to the road would be negligible.

John brought up the terms of the lease of space on the tower and space for the cabinet. Bert said there were comments about generators. He stated the space needed for the generators, space for the propane tank to run it and space for the cabinet. Mr. Parisi said a lot of tenants find it easier to have a temporary generator so it wouldn't need as much space. Bert mentioned the Board of Selectmen haven't decided if the Town would use a temporary generator or a permanent generator. He continued stating the Town could possibly require a 8 x 16 pad at the very least. Mr. Parisi replied they receive \$3000 to \$4000 per month for a space of that size. He continued to say he is not building this structure for the Town. He is leasing free space to the Town and would like it to be a win, win. The Town of Derry requested what he is offering to the Town of New Ipswich and is very happy with what they have. Bert told Mr. Parisi the Selectmen would like Mr. Parisi's company to mount the equipment for the Town. Mr. Parisi said the tenants install their own equipment and it would be much cheaper for the Town to hire their own company to install it. Debbie asked about the Police antenna being at the very top of the tower and if there would be enough space to mount more than one antenna for Fire and Emergency Management in the future. Mr. Parisi replied there would. Lou had concerns regarding a 6' lightning rod next to the 8' antenna. Tom said they could extend the lightning rod higher than the antenna.

Lou asked if there are any regulations in this space regarding the cabinet and the propane tank. Scott replied there needs to be 14 inches between the generator and the propane tank. John asked about the area of the pad for the leased tenants. Tom replied they are typically 10 x 20. Scott said the feedback he has received from the Selectmen is the need of the Town would possibly be 4 x 8 minimum in case in the future, Fire and Emergency

Management would like to add an antenna. John asked if the Town could be accommodated with a 4 x 8 pad. Mr. Parisi said it could be possible.

Tom said a lot of renters use diesel generators versus propane because the footprint and setbacks are fewer. Debbie asked if renters share fuel for generators. Mr. Parisi replied they don't usually. Liz wants to find out what will go on this 4 x 8 pad. Scott replied the cabinet and possibly the generator but we have to determine the details of what the Town requires because we don't want to request space and then not use it or need more space and not have it.

John mentioned the technical aspects of the Lease Agreement. Bert said Town Counsel had a lot of issues with it and the Selectmen had some issues. He suggested Mr. Parisi get in contact with Scott Butcher regarding the Lease Agreement to work out the details and concerns.

Mr. Parisi reiterated the fact he is in the business to sell space on the tower, not to build the tower for the Town. He continued by saying if he has to incur costs to accommodate the Town, he will have to pass those costs on to the Town. He is not saying no to anything the Town is asking for, he's just saying he won't be able to give it to the Town free. He also said he is giving the Town "reasonable" space which is technically undefined.

Paul said as he understands it, this will be a "repeater" for the Town, not the main communication. Mr. Parisi agreed, further stating it would not add structure so it wouldn't add any cost. Bert & Scott explained the Town may be purchasing new equipment and not using the existing antenna located on the site. Scott said we are trying to understand what the limitations are on what Mr. Parisi is willing to provide but doesn't want the details to bog down the rest of the process for Vertex. Bert said the Selectmen talked at length last night regarding concerns with the Lease Agreement and also what the Town needs. John stated there is an alignment with the Telecommunications Act in terms of wanting to have a communication infrastructure for a cellular tower which also supports emergency services and first responders, making them mesh and still being financially viable.

Mr. Parisi commented the way this is usually done is the Planning Board, should they be inclined to approve the project, would condition the approval upon Vertex making "reasonable" space on the tower subject to satisfactory agreement between both parties and the details could be worked out at a later time.

John asked if there are any other questions from the Planning Board before continuing the Public Hearing. Bert said he would like more specificity in place of the word "reasonable". Liz asked if he needs the conditional approval before he can do anything. Mr. Parisi replied they have federal processes that need to be done and also weather related items such as geotechnical analysis before the snow flies.

John asked if the public had any comments. Al Jenks, 1180 Turnpike Road, said the Town needs to do it's homework to find out exactly what the Town needs so we can move forward with this project. Sig Dellhime, 1250 Turnpike Road, said if the cell tower site is going to be a repeater, it would make the needs of the Town simplified.

Scott stated he and Tim Carpenter have been talking daily regarding the needs of the Police Department. He said they need to speak with the property and liability company to see if there are any concerns regarding the indemnification side of it.

Mr. Parisi commented that this project is now getting mixed up in the Town's budget cycle, etc. and this does not affect the Planning Board approval of the project. Bert said he would feel more comfortable having the details worked out prior to voting to approve the project and Mr. Parisi will have to meet with the Selectmen to iron out the details and approval to perform the work on a Class VI road.

John stated the Planning Board is not waiting for an exact Lease Agreement but he would like the Planning Board to have a better comfort level in order to vote to approve the Tower. Mr. Parisi asked how long it will take the Selectmen to go back and forth with Town Counsel. Scott replied it should be able to be completed before the next Planning Board meeting. Mr. Parisi would like to know what will happen on November 6, 2019. John replied it is conceivable to see a motion to approve the project provided there are clarifications to the outstanding issues. Liz made a motion to continue the Public Hearing to November 6, 2019 at 7:30 pm. Paul seconded the motion and it passed unanimously.

#### **Matthew Way:**

John said there is a disagreement between the HOA and the Builder and what the Planning Board's role is in this. Liz stated it is not in the Planning Board's purview. Debbie informed the Board she had spoken to NHMA counsel regarding this issue. Steve Buckley told her this is a civil matter between the HOA and the Builder. John asked Debbie to inform Vicki Coppinger (President of the HOA) the Board has discussed this and determined it is a civil matter.

**Off-Site Improvements:**

Liz asked to table this discussion until November 6, 2019.

**Underground Utilities:**

John said the small subdivision next to Dollar General was supposed to have underground utilities. Liz read Amendment B:12 from the Subdivision Regulations. Bert said because this is mandated in the Subdivision Regulations, we should invite Mr. Holumbo in to ask for a waiver for his subdivision on Turnpike Road (Douglas Drive) or put the utilities underground because the Selectmen want to enforce this before the other 2 houses are built on the driveway.

Debbie said she discussed the Subdivision Regulation regarding underground utilities with Kent Brown. Kent interprets B:12 as the following: utilities should be underground from the main road if there is a new road being built (public or private). Liz stated the Board needs to discuss this section of the Subdivision Regulations at the next meeting to decide whether it needs to be amended. The Board reviewed the Subdivision Amendments and this was added in May of 2007. Debbie stated there have been 27 subdivisions since May 2007 so this would have to be enforced for all of those subdivisions. Liz made a motion to not require any action by the Board regarding Douglas Drive. The motion was seconded by Craig and passed unanimously. John asked Debbie to send a memo to the Selectmen stating the Board is not taking any action at this time due to the amount of subdivisions built since 2007 and underground utilities have not been enforced.

The Board agreed the Underground Utilities Amendment needs to be addressed at the next meeting to clarify if it is for any subdivision or subdivisions creating a new road.

Lou G. mentioned the possibility of requiring PV panels on new houses.

On the next agenda, the Board will discuss the following:

Off-site Improvements

Enforcement

Commercial District

Regulation B:12- underground utilities

Public Hearing for Glavey Cell Tower at 7:30

-List of conditions for approval

Liz made a motion to adjourn at 10 pm. Bert seconded the motion and it passed unanimously.

Respectfully submitted,

Debbie Deaton

Land Use Clerk