

MINUTES
PLANNING BOARD
February 21, 2024, 7:00pm
In-person/Zoom

Present: Chair Deirdre Daley- in person, Josh Muhonen (Vice Chair)-in person, Shawn Talbot (Ex-Officio)-in person, Liz Freeman- in person, Bruce Ruotsala- in person, Nichole Talbot-in person, Craig Smeeth- in person, Tim Somero-in person, Lou Guarino-in person, John Schaumloffel-in person, Jennifer Minckler- in person.

Citizens in attendance – Michael Ploof- Fieldstone Land Consultants, PLLC- Engineer for the applicant, Dexter Somero, Roger Somero, Bert Hamill, Planning Board Chair Engineer- via Zoom, Emily Krook-via zoom, Kate Boot -via zoom

Open meeting with the pledge of allegiance.

Roll Call taken by Chair Deirdre. Liz recused herself for the Dexter Somero hearing. Chair Deirdre appointed Nichole as a voting member.

Notes of February 7, 2024- No changes needed to be made and were approved by those in attendance at that meeting.

Minutes of February 8, 2024- Motion to approve as amended by Josh. Selectman Talbot seconded. There was 1 abstention by Liz. Motion carries

7:15: Public Hearing- Dexter Somero, 2 lot subdivision Map 13 Lot 69 422 Ashby Road. Liz Freeman recused herself, as she is an abutter and sat in the audience. Michael Ploof reviewed the application and referenced the plan for this subdivision. He advised the following:

- The existing lot has 8.55 acres with 370.5 feet of frontage along Ashby Road.
- Proposing lot 1 will have 2 acres and 239.37 feet of frontage.
- Proposed lot 2 qualifies as a back lot with 6.55 acres and 131.21 feet of frontage.
- Both lots have well over one acre of qualifying contiguous area
- Zoning for the entire site is rural.
- Minimal lot size is 2 acres with 200 feet of frontage.
- Setbacks from the front are 30 and the side are 20.
- There is one waiver request from Appendix B - design criteria B:05 Drainage Plan including storm drains. Typically, that would be for a large subdivision, and this is only one lot.
- Bert Hamill, the Planning Board Engineer, has reviewed the application and check list.

Michael Ploof provided a colored plan and reviewed what the colors of the plan signified. Blue is the limit of existing parcel. Orange is the lot line. Yellow is the building setback line. Pink is the 25-foot wetlands buffer, and the green line is the wetlands themselves.

Bert Hamill advised that his only concern was the shared well in the front. He also advised that if a wetland crossing was needed, additional plans may be required and the applicant should have to come before the board again.

Chair Deirdre confirmed that there is only one waiver request which was requesting relief from design, but the Planning Board is at the completeness stage of the application. A copy is required for both compliance and completeness phases if that is consistent with the applicant's plans. Michael Ploof manually revised and submitted a copy of the waiver for the purpose of meeting the requirements of the completeness phase. Mr. Ploof provided this to the Land Use Clerk for the file.

Chair Deirdre reviewed the checklist of the Planning Board Engineer's review:

For number 12, the road frontage for each lot should be shown on the plan instead of note 4. Mr. Ploof confirmed that it is contained in the block of the plan and showed where it is located.

Number 13 offsets from building to property lines should be shown. Mr. Ploof believes the dimensions of setbacks are to be shown and he did not realize the requirements covered the dimensions of the existing building, but that can be added to the plan. Bert advised that dimensional offsets should be shown.

Number 25 – is the existing well currently used? Is the existing well a community well. Mr. Ploof does not believe it is a community well, but the deed does state that Liz (a butler), her heirs, has the right to draw water from the artesian well. Both Dexter and Liz stated they do use the well.

Number 36- existing well easement & access not fully defined. Mr. Ploof confirms it is as defined as it can be.

Number 41- Chair Deirdre advised this may be covered in compliance.

Number 44- Chair Deirdre questioned the location of an existing septic tank. Mr. Ploof showed on the plan a septic access and the leach field area on the plan.

Number 45- release for protected well radii. Mr. Ploof stated that is not needed because house was built in 1979 and if it is pre-1989, the state does not require a well release.

Number 51- Drainage plan is related to the submitted waiver.

Motion by Josh to accept the waiver for completeness for Appendix B Criteria B:05 Drainage "Drainage plan" including storm drains, culverts, related installation, catch basins, gutters, and manholes". The improvements for this 2-lot subdivision are minor and therefore a waiver from submitting a drainage plan is respectfully requested. Motion seconded by Selectman Talbot. No further discussion. Roll call vote. Motion carries.

Motion to approve the application for completeness by Josh. Motion seconded by Selectman Talbot. No further discussion. Roll Call vote. Motion carries.

Chair Deirdre advised that a waiver for compliance must be reviewed by the Planning board Engineer. Bert confirmed that he had no issue with the waiver but if there was a wetland crossing, the applicant would need a wetland crossing plan. Chair Deirdre noted that while

the plans show a suitable building area, there is a potential disconnect between the location of the septic/well and the potential house location. Since the property is in the conservation overlay area and the builder plans to build on the back of the lot, there may need to be more details about clearing and potentially drainage.

7:45 Open Public Comment: Liz Freeman referred to a two-page document of her concerns and reviewed the contents of the document. Her document is shown on the last two pages of this document.

One specific item read by Liz from her document which stated:

Wetlands delineation. *There are 2 large wetland areas located towards the northern portion of the property. The topography suggests these wetlands might be contiguous, but they are not shown that way on the subdivision plan. **The wetlands delineation in this location should be checked again if any development is proposed in this area.***

Other topics included in the document included ensuring the plans indicate the existing driveway is to be closed, flood plain designation on the property furthest from the road, potential building in the back lot access area which is not usual location for the building box (however the bulk of the utilities are in the access area) and the general discouragement of back lot designations in the subdivision regulations.

Mr. Ploof noted that there are three criteria for wetlands which are vegetation, hydrology and soil and stated that the Soil Scientist considered those factors in delineating wetlands. He also noted a shared driveway agreement (consistent with the template used over the years) was submitted to the land use clerk.

John Schaumlöffel commented that this subdivision application is causing a back lot that has marginal qualities for development. He feels that if the board is going to approve this then in the approval letter, it should clearly state what the potential concerns of the back lot are, and to be as clear as possible for any purchaser doing due diligence when buying or seeking ownership of that lot. He states that it may be a difficult lot to develop.

Roger Somero asked if you cannot build a house any closer than where the width is 200-feet, then is there is a limit of how close you can build a house to the road? Chair Deidre replied that the board will have to discuss this.

Liz asked if the planning board can require that the applicant show a viable building envelope.

Chair Deidre reviewed the subdivision regulations on page 11 and referenced Section 4 paragraph 4:5-1 sub C to clarify the 200 foot requirements. The regulations state: *Each back lot must have at least 50 contiguous feet of frontage on an approved Class V road or better to provide access. The access area is considered that portion of the back lot between the approved road and the point at which the back lot is at least 200 feet wide (on a line parallel to the approved road). The access area shall be part of the back lot but its area may not be used to meet minimum acreage requirements of the back lot. The entire access area must be at least 50 contiguous feet wide.*

Liz states if building is allowed in the access area, it will be set a precedent. Mr. Ploof advised that it would not set a precedent because it is 150 feet wide. All other setbacks might be met.

There was discussion among the board of where the house will be put, either in the back or the front. Selectman Talbot feels that the owner can determine which area to build on if the board clarifies the conditions required to do so. Discussion continued on the difficulty of the application since the back of the lot is conservation, has flood designation and building on the front of the lot would minimize fragmentation of the conservation land... yet building in the front of the lot (southern side of the wetland) would mean septic or house placement at least partially in the access area (although the access area is considerably wider than the 50 ft. minimum. The current plans with minor changes could be economically suitable for building south of the wetlands, but more work would be needed on the plans if building was in the back (including potential need to return to the planning board).

There was also discussion about the location of the wellhead and set backs. The well head may need to be moved to the relative to set backs with a release.

Liz requests that the board will ask for delineation of the river within at least 25 feet of the property line. They are not currently shown on the plans.

Board members asked if the applicant had any additional feedback based on the dialog.

Mr. Ploof would like the option to build in the back or the front and a plan will be built for either scenario and the required submissions will be completed. Mr. Ploof asked to speak with his client. Following a five-minute break, Mr. Ploof advised the board that the applicant had a preference for developing the front of the lot.

9:12. Motion to close public comment by Tim. Motion seconded by Bruce. Roll call vote. Motion carries.

Chair Deidre advised the board of the need to vote on the waiver and she again read the waiver request which stated:

Appendix B Criteria B:05 Drainage "Drainage plan" including storm drains, culverts, related installation, catch basins, gutters, and manholes". The improvements for this 2-lot subdivision are minor and therefore a waiver from submitting a drainage plan is respectfully requested.

Since the applicant indicated a plan to build on the south side of the wetland, no crossings would be required (or associated drainage plans). Motion to grant the requested waiver on the condition that lot is for the building envelope closest to the road by Selectman Talbot. Motion seconded by Nichole. Roll Call vote motion carries.

Selectman Talbot volunteered to write the finding of the facts for the decision letter.

Josh made a motion to accept the application for subdivision tax Map 13 Lot 69 as compliant with the following conditions:

1. Submission of Mylars
2. Payment of fees
3. Setting of any monuments
4. Move the proposed well from Map 13 Lot 69-2 out of the wetland buffer.
5. Get a well release for proposed well.
6. Delineate features 25 feet of the property line (lot 68)

7. Label the building envelope on the south side of the wetland.
8. Construction of any home is to be in the building envelope.
9. Add a note on the plan that the current driveway on 69-1 will be closed.
10. Shared Driveway Agreement executed.

Tim seconded the motion. Roll Call vote Motion carried.

8:00 Public Hearing - Brook Haven Farm LLC, 33 lot cluster subdivision Map 6/20 & 6/20-9, Appleton & Maki Road continued from 12/20/2024 and from 1/17/2024.

Chair Deirdre advised that this hearing is to be continued to a date certain March 6, 2024 at 7:30pm. Motion to continue to a date certain March 6, 2024, at 7:30pm by Chair Deirdre. Motion seconded by Tim. Two opposed. Motion carries.

Selectmen's Report & Chairman/Land Use Report: Selectman Talbot reported that the Meet the Candidate's night location has been changed to Mascenic High School auditorium and will be held February 27, 2024. A snow date is scheduled for March 5, 2024.

The Land Use Clerk reported that she worked with BS&A on the new building software in relationship to what needs to be built into the software for planning. Chair Deirdre believes we need to have a meeting on the process and Selectman Talbot feels we should have an idea of the process flow between departments that the planning board worked on, is incorporated into the software. The Land Use Clerk mentioned that there will be the ability for payment of fees as well as bonds incorporated into the new software system. The Land Use Clerk also advised that all documents that are currently downloaded to Dropbox can be downloaded to the new software.

Old/New Business: Chair Deirdre advised that the Planning Conference is April 29, 2024, and asked the board members to sign up and contact the land use clerk about it.

Chair Deirdre would like to execute the master plan agreement. Tim advised that he is running for the school board and feels the master plan should go out to the community and taxpayers for the direction of the schools. Discussion continued on this topic. Tim made a motion to approve and sign the agreement Municipal Planning Assistance Agreement Master Plan Update 2024 between the Planning Board and SWRPC. Motion seconded by Selectman Talbot. Roll Call vote. 1 abstention. Motion carries

Chair Deirdre mentioned that Cleargov is the group that is being contracted for working on the warrant article with the Finance committee. All the data of CIP and cost must be entered in this system. Once entered there is only 60 days of support from Cleargov.

There was discussion of how a continuance is resolved.

Motion to adjourn at 10:00pm by Bruce. Motion seconded by Josh.

Respectfully submitted,
Jennifer Minckler
Land Use Administrator

Liz Freeman document

Proposed 2-lot Subdivision of Tax Map Lot 13-69

OMISSIONS ON PLAN

Location of Lot 68. *The plan suggests lot 68 is across the street. **The plan should indicate the actual location of lot 68.***

Location of River. *The plan doesn't show the location of the river at the southeast corner of lot 60. The river is a significant feature and is located well within 25 feet of the boundary between lots 60 and 69 for some distance before it veers off onto lot 60. This has implications for the location of any new septic system on lot 69. There appears to be plenty of room for a new septic system, if needed, on lot 69, but for future reference **the plan should show the location of the West Branch of the Souhegan River, and associated setbacks, where it is within 75 feet (septic setback) of the boundary of lot 69.***

Location of One Contiguous Acre of Non-Steep Non-Wet Land. Appendix A, Paragraph A-17 of the Subdivision Regulations requires "Identification on each proposed lot of one contiguous acre which complies with the requirements of Article X.A.1 of the New Ipswich Zoning Ordinance." Note 4 on the plan states this requirement has been met, but the area of Non-Steep, Non-Wet land has not been identified on the plan, as required. Given all the wetlands on the property, it could be helpful to have a supplemental plan showing location of wetlands and associated setbacks and identification of the contiguous area of non-steep non-wet land. **At the very least, the Planning Board should require that this area be shown on the plan that has been submitted.**

Existing Driveway. *The proposed plan would replace the existing driveway with a shared driveway having access in a location different than the existing driveway. The existing driveway is not clearly labeled. **The existing driveway should be clearly labeled and there should be a note on the plan stating that the existing driveway will be closed off, or this should be a condition of final approval.***

ISSUES FOR CONSIDERATION

Shared Well. *Lot 68 has a deeded easement to the use of the well. It's a shared well serving a total of 5 bedrooms. The protective well radius of 75' is sufficient for current usage (5 bedrooms times 150 G/bedroom = 750 G). If either lot ever wanted to add a bedroom, the usage would exceed 750 G/day and the well would therefore require a 100' protective radius. **It could make sense to show a 100' protective radius** as there appears to be room for one.*

Wetlands delineation. There are 2 large wetland areas located towards the northern portion of the property. The topography suggests these wetlands might be contiguous, but they are not shown that way on the subdivision plan. **The wetlands delineation in this location should be checked again if any development is proposed in this area.**

Flood Prone Areas. A portion of the property is encumbered by a Zone A 100 year Flood Hazard Area. Although Zone A has not been studied in detail by FEMA and therefore does not have a defined elevation, this flood hazard line as plotted on the subdivision plan crosses contours as low as 934 and as high as 950. This means that any driveway constructed to access the northerly back portion of the lot could be subject to flooding, and the placement of fill in these areas could consume flood storage volume that would make surrounding properties more likely to flood. **Section III – 4:02 (character of the land) and 4:04 (unsuitable lands) both reference “land prone to flooding” as a condition that the Planning Board should consider carefully when determining if a property is suitable for subdivision.**

Building Envelope Located on Northern Portion of Property. A house located on the northern portion of the property would require a wetland crossing for a driveway to access the house. It would also require a septic system near the house. **The location of a proposed driveway should be shown on the plan and the Planning Board must require as a condition of approval both a wetland crossing permit from NHDES and a variance from the ZBA, as well as a test pit on the northerly portion of the property.**

OR

Building Envelope Near Ashby Road. Section IV 4:05-1 Paragraph C states in part “The access area is considered that portion of the back lot between the approved road and the point at which the back lot is at least 200 feet wide (on a line parallel to the approved road). The access area shall be part of the back lot but its area may not be used to meet minimum acreage requirements of the back lot.” Although not explicitly stated, this may imply that the access area is not intended for use as a building area. If it were common practice to allow this, it could easily lead to the appearance of overcrowding incompatible with rural character. In my 25 years on the Planning Board, I cannot recall the access area of a backlot ever being used for a building envelope. **The Planning Board would be setting a precedent if it approves this location for the house and should therefore explicitly state the conditions the Board believes justify such approval.**

Size of Building Envelope Near Ashby Road. Is there enough room for a house, septic system, and shared driveway in this area? The location of the wellhead is within the 50 foot wetland setback and would require a variance if not relocated. **The Planning Board should require a detailed plan showing the locations of the house, septic system and well and that they all comply with the New Ipswich Zoning Ordinance and Subdivision Regulations.**

Approval of backlots. The Planning Board is not required to approve a backlot. Section IV 4:05-1 states in part that a backlot “**may** be approved at the Board’s discretion if the following conditions are met:” Note that it does not say “**shall** be approved.” Paragraph F under Section IV 4:05-1 states as one of the conditions “The creation of back lots in a subdivision according to Section 4:05-1 is not intended for the subdivision of land that could be better subdivided by other land use techniques. Therefore, the creation of back lots in a subdivision is discouraged and the Board at its discretion may deny requests creating one or more back lot.” A land use technique that might be considered more appropriate for this property would be an Accessory Dwelling Unit. A detached unit designed to look like a barn or garage could be attractive. There used to be a large barn

located on the property. ***The Planning Board has the discretion to decide if a backlot is appropriate for this property.***