

PLANNING BOARD MEETING
APRIL 19, 2017

PRESENT: Bert Hamill, Chairman, Tim Jones, Liz Freeman, Deirdre Daly, Ed Dekker, David Lage, Ned Nichols, Joanne Meshna

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

Minutes: The minutes of the April 5, 2017 meeting were reviewed and the following corrections made: Page 1, under Dollar General Store, Ed added at the end of the paragraph "Ed offered to provide a written complaint as a New Ipswich resident to get a measurement of the light levels. David replied the Selectmen will only act on complaints from abutters. Ed said this provides another reason to revisit the lighting ordinance."; page 3 under Elections, second to last sentence should read "Liz made a motion to nominate Ed as Vice Chairman; page 1, USA Properties, last paragraph, third sentence should read "A concept plan has been emailed to him showing the subdivision and...; second sentence, same paragraph should read "Mr. Willis was not willing to concede the well issue."; page 3, second paragraph, fourth sentence should read "David stated the approval is not going to be revoked, no..."; last sentence, second paragraph should read "Bert suggested continuing the discussion before any decisions are made and the Board can decide if it should be done in a public forum."; page 2, third paragraph, third sentence should read "The proposed back lot has 50 feet of frontage on Stowell Road."; same paragraph, first sentence should read "Attorney Silas Little presented plans showing the proposed subdivision outlining ..."; same paragraph, second to last sentence should read "... portion of the road is a Class VI road as shown on the Town maps." Bert accepted the minutes as corrected.

The Board discussed the lighting at the Dollar General Store. Ed noted the issue was too much lighting coming from the store and it could be they are exceeding the levels allowed or the levels allowed are too high. Bert suggested asking Dollar General if they could lower their lights although it does not answer the question on the regulations.

7:10 p.m. Nathan and Danielle Sikkila – Continuation of public hearing for an excavation permit:

Bert read the public notice for the continuation of the hearing. The hearing was originally scheduled for March 1 but continued to this date. David stated the applicant should not be applying for an excavation permit unless it is for a commercial operation; this excavation is incidental to the construction of a barn. Deirdre questioned if the Board should or should not be discussing the application. Bert responded the Board has not heard the application and does not know the description or scope of the project, and asked the applicant to outline what they are doing. Deirdre is a neighbor to the development. Tim noted Deirdre had attended the Zoning Board hearing for the Sikkilas and questioned if she should be involved in the hearing. She is not a direct abutter. Bert asked if Deirdre thought there was a conflict of interest and she responded she did not. The Board did not object to Deirdre hearing and voting on the application.

Mr. Chad Brannon from Fieldstone Land Consultants presented the application to the Board. The project is located on Ashburnham Road, lot 14A/4. The primary reason for the excavation is to prepare the land for the construction of a barn and paddock area for livestock. The property has approximately 10.7 acres of land and there is a residence under construction on the site. The property is bisected by a forested wetland with approximately 5.1 acres of land on either side. The Zoning Board granted the applicant a variance to cross a wetland and the Zoning Board determined that the project was incidental to construction so there was no rendering on a special exception application filed to permit excavation. A wetlands permit was approved by the DES.

Mr. Brannon continued stating the access road is proposed to be 16 feet in width and the total disturbance is 2.2 acres. The materials to be excavated off site are 62,500 cubic yards. Some of the materials will be used on site around the residence. RSA 155-E does not restrict the selling of materials for projects that are incidental to construction. Test pits have been done on the property. The wetlands impact is 1,064 square feet. The excavation operation will meet all setback requirements and no hazardous materials will be stored on site. Hours of operation will be 7:00 a.m. to 6:00 p.m. on week days and on Saturdays 7:00-2:00. The project is expected to take 1-2 years to complete. All organic material will remain on site. Erosion control practices will include a berm on the north side of the site and the excavated area will be self-contained with no impact to surrounding areas.

Bert questioned the total area to be disturbed and Mr. Brannon responded 2.2 acres. Bert also asked if the total 62,500 cubic yards is going to be sold or if some will be left on site. Mr. Brannon stated a good portion will be used on site and approximately 60-70% will be removed and sold. Liz questioned the Planning Board's role since the Zoning Board determined the excavation was incidental to the construction. David noted the Zoning Board required the excavation be completed in 18 months. Bert stated 40,000 yards is a lot of material to be hauled off the site. The Zoning Board was not unanimous on their decision. Bert continued stating he thought it was important for the Board to look at the application.

Ed stated there would be 2,000 truckloads which would make this a major gravel operation if completed in two years. The Zoning Board may have decided the applicant does not need a special exception for the gravel operation but it did not say they did not need an excavation permit from the Planning Board. David stated RSA 155-E states if there is a building permit and the excavation is incidental to the construction, an excavation permit is not required. Mary Pinkham-Langer confirmed that understanding. Tim asked if the Zoning Board was aware of the number of truckloads and David responded they did. Ned did not think 60,000 cubic yards and 2.2 acres was incidental. Mr. Brannon responded over a year and half it breaks down to 4-5 trucks a day. Ed stated over 18 months only 9 months would be the construction season which means 10-12 trucks a day. Mr. Brannon stated the market is year round and right now is strong. Liz stated granting an excavation permit suggests it is an excavation which the Zoning Board has said it is not, it is incidental to a building project. Even if the Planning Board does not like the laws as they are written, they do not have the authority to rewrite or ignore them. Tim questioned what percentage of the 60,000 cubic yards is from the barn and what percentage is from the field. Bert responded they are excavating to build a paddock area. Mr. Brannon stated they are digging down below existing grades and then leveling out the area. The area will be

relatively level and self-contained. RSA 155-E also exempts agricultural use which is directly in line with the proposed end result.

Bert asked what safeguards are in place to protect the property should it be left unfinished. David responded there is no authority to have them put up a bond and that was why the Zoning Board required the 18 month completion date. Ed asked if there is assurance that the top soil and organic material will not be removed from the site. Liz stated that was not a condition of approval. Further she stated she did not believe the Planning Board has any authority in this manner; the Zoning Board has made a determination, unless the Planning Board wants to challenge the Zoning Board on their finding. David noted RSA 155-E states it is an exception. Bert responded the Board could make a case that it is a commercial operation because there is a sale occurring. He was concerned about the project being left undone and suggested the applicant voluntarily offer to post a bond to satisfy that the project is completed satisfactorily, environmental concerns are taken care of, and the property is stabilized.

Deirdre asked if the house was going to be built at the same time as the barn and Mr. Brannon stated the house is being built now. Deirdre pointed out there is note on the plan that 5 acres will be disturbed and not 2.2 acres. Mr. Brannon responded that was a standard note for this type of operation and only 2.2 acres are going to be disturbed. Deirdre stated she wanted the note changed to say that the maximum amount of disturbance for the excavation will be 2.2 acres.

Liz questioned where the authority is found for the Board to require a bond and Bert responded because the Board can define the operation as commercial. Liz further stated that the Zoning Board, Mary Pinkham-Langer and DES have stated it is not a commercial operation and it is an RSA exception. David noted that Mary had reviewed the Town's excavation regulations and noted they need to be updated and address some of these concerns. Ned noted the Zoning Board did not require a special exception and also did not approve or disapprove the excavation.

There were no public comments. Liz made a motion to dismiss the application. Tim seconded the motion and the vote failed by a vote of 3 in favor and 4 opposed. Liz asked how the Board was going to require the permit as the Zoning Board determined it is not an excavation. Reference was made to the Zoning Board's minutes of April 6 and how the variance application and special exception application were decided.

Mr. Kenneth Lehtonen stated in Sharon he had the same situation. Approximately 35,000 cubic yards were removed incidental to building a house and the only permit required was a building permit. The next lot had no building and they had to get a gravel permit in order to remove 8,000 yards.

Bert suggested a motion be made to continue the hearing to the next meeting so the Board can review the documentation and Ed added to the motion by stating the Board ask the property owner to consider a voluntary bond to ensure completion. Mr. Brannon stated he would like to discuss the issue with the property owner and asked if they could return after the agenda was completed this evening. Bert tabled the hearing until the end of the meeting.

7:55 p.m. 158 Binney Hill Road, LLC – Public hearing for a two lot subdivision:

Bert read the public notice for the hearing. Mr. Ed Rogers presented the two lot subdivision application to the Board. The lot being subdivided is lot 9/13, 13.11 acres, located on Binney Hill Road. Currently there is a long driveway that goes to an existing trailer. Upon subdivision lot 9/13 would be 6.72 acres and lot 9/13-1, a back lot, would be 6.39 acres. Frontage is on Binney Hill Road. Lot 9/13 is subject to a proposed access easement for the benefit of lot 13-1 along the route of the existing driveway. Mr. Rogers intends to use the Town's boiler plate driveway agreement.

Deirdre referred to a note on the plan that the buffer would not be cut for 20 years and Mr. Rogers noted that was the buffer to the wetlands buffer. Mr. Rogers was informed about the amendment passed in March and he will make sure it is consistent with the plan.

Kent Brown reviewed the application and the only missing information was the letter from the Fire Chief on adequate fire protection and a shared driveway agreement. Mr. Rogers submitted a letter from Fire Chief Meredith Lund which stated there is adequate water supply to the property. Ed made a motion to accept the application as complete. Liz seconded the motion and it passed unanimously.

Mr. Rogers stated a new house will be constructed on lot 9/13. Liz noted the wording regarding the wetland buffer needs to reflect what passed in March and Mr. Rogers will amend the plan. The existing driveway at its steepest point is at a 12% grade. A small portion along the northern edge of the lot is in the floodplain zone. There is a portion of the lot in the Conservation Overlay District and the plan complies with the one contiguous acre. The 75x75 foot square needs to be shown on the plan.

Liz made a motion to conditionally approve the two lot subdivision for 158 Binney Hill Road, LLC, the conditions being receipt of an executed driveway agreement to be registered with the mylar, correction of the note on the plan regarding wetland buffer, addition of the 75x75 foot square, setting of markers and payment of fees. Deirdre seconded the motion and it passed unanimously.

8:10 p.m. Dennis and Carol Alix – Public hearing for two lot subdivision:

Bert read the public notice for the meeting. Mr. Ed Rogers presented the two lot subdivision application to the Board. The lot being subdivided is lot 6/21A, 11.14 acres, located on Boynton Hill Road. Upon subdivision lot 6/21-1 will be 4.79 acres and lot 6/21A-2 will be 6.35 acres. There is an existing house on lot 6/21A-1. A new driveway will be built off Boynton Hill Road with a wetland crossing that has been approved by the Zoning Board. A wetlands permit is pending with the DES.

Kent Brown's review indicated a letter from the Fire Chief was missing. The letter was submitted by Chief Lund and in it she states there is not access to adequate water supply to the proposed new house. It was her recommendation that dry hydrant options on ponds in the Maki Road area be explored. Kent pointed out that the State dredge and fill approval is missing. There is a waiver request for an erosion control plan for the portion of the driveway over 15%; the portion of the driveway over 15% is approximately 20' long and is for a proposed house which may ultimately have a different alignment. A waiver is also requested for letters from the public utilities due to the fact there is service available to

the existing homes and other homes along Boynton Hill Road. Kent recommended the waivers be granted. Ed made a motion to grant the waiver requests. David seconded the motion and it passed unanimously. Ed made a motion to accept the application as complete. Liz seconded the motion and it passed unanimously.

The slopes map was reviewed. Mr. Rogers noted most of the site is fairly flat. The erosion control plan is incorporated with the application to the State. Mr. Rogers stated the driveway can be maintained in an area not to exceed a 12% grade. David stated if the application is approved, there should be a stipulation that the driveway cannot be located where it exceeds 15% slope. Liz stated there should be a condition as to where the driveway is located as she was concerned about 15% slopes and no erosion control plan. Mr. Rogers stated they are going to be able to keep the driveway in an area of 15% slope or less; most of the area is in 10-11% slope. Tim asked if there was a possibility of flooding of the roadway and Mr. Rogers did not expect that to be a problem. At the wetlands crossing there is a 24 foot culvert. The 75x75 foot square was located on the plan.

The letter from Chief Lund was discussed. Mr. Rogers stated the applicant was willing to talk with Chief Lund about a dry hydrant. Mr. Alix stated a few years ago an abutter did a three lot subdivision and one of the conditions was installation of a fire pond or sprinklers in the home. There is a house there now and a fire pond was never constructed. Mr. Rogers stated with that subdivision there was an area dedicated for a fire pond and designed across from the Alix's but was never constructed. Mr. Alix added that when his son built in that area a few years ago there were two fire ponds on Maki Road that had been adequately built and fire protection was not an issue. Bert stated if the applicant would voluntarily like to put in a sprinkler system in lieu of a fire pond that is normally accepted. Ned stated he was uncomfortable with having two fire ponds that are adequate and now require a stand pipe, and charging each applicant as they come along; it is a Town issue as there is enough water but now we need another device. Ed questioned why throwing a hose in the water is sufficient for existing homes but not sufficient for this subdivision.

Bert questioned if the Board could approve a subdivision without Fire Chief approval. The Board referred to Section VIII. B. of the Subdivision Regulations which states a letter from the Fire Chief that there is adequate access and water supply is to be provided. Section VIII. C. stated the applicant must provide the information requested for every item on the checklist or request a waiver. Mr. Rogers submitted a waiver request to Section VIII. B. requesting a waiver for the requirement of a letter from the Fire Chief stating that there is an existing source of fire protection due to existing ponds on Maki Road. Deirdre made a motion to approve the waiver. Ned seconded the motion and it passed unanimously. Deirdre stated her understanding was this approval did not negate the requirement for the homes in the three lot subdivision based on their approval and Bert stated they could come back and ask for a waiver. Liz noted this was an enforcement issue because it is a condition of approval that was not met.

Deirdre made a motion to conditionally approve the two lot subdivision application with the following conditions: receipt of approval of the State wetlands permit, the driveway grade is 15% or less, placement of markers, payment of fees and receipt of the mylar. David seconded the motion and it passed unanimously.

Mr. Rogers asked to address the Board on fire protection as a resident and stated he agreed with Ned. There have been opportunities when an off site exaction might have been appropriate. He questioned if there might be a way to change the process. Bert noted when they did the CIP they identified almost half of the hydrants are not operational and recommended they be cleaned out and more installed. They were not part of the budget.

8:45 p.m. David Petito and Cyndi Babin – Expedited site plan application:

Mr. Petito stated they own 76 Turnpike Road where originally Ms. Babin's business, Wildflowers, was located inside the home. They then moved the business to 545 Turnpike Road. They now would like to move the business back to its original location at 76 Turnpike Road. There is Zoning Board granted approval for the business at that location.

They are proposing to build a 24x24 building for the business. There will be no additional pavement added and one exterior light on the building. Ed noted the floodlights would have to be shielded for full cut off and there are limits on the amount of lights. Mr. Petito was referred to the sign ordinance. Ed asked if there would be a commercial kitchen and Mr. Petito replied they were not sure if they would do that or not.

The waiver requests were reviewed. David asked if the septic system was designed for the capacity. There are no sinks in the new building and no bathroom. Ms. Babin cooks bakery items.

Liz made a motion to approve the waiver requests. Deirdre seconded the motion and it passed unanimously. Ed made a motion to accept the application as complete. Tim seconded the motion. David asked about the driveway grade and Mr. Petito stated nothing had changed since the Zoning Board approved the site. The sign that is at the current location will be moved back to 76 Turnpike Road. The motion was approved.

Ed asked where the building is located in relation to the septic and Mr. Petito indicated the area. The leachfield is located under the driveway. The shop will only be partially seen from Turnpike Road. Lighting will be downward and the lights will be turned off at night when the business is closed.

David made a motion to conditionally approve the expedited site plan review with the conditions that the lights are turned off when the business is closed and be in compliance with the lighting ordinance, and if the kitchen turns into a commercial kitchen, appropriate approvals are granted. Deirdre seconded the motion and it passed unanimously.

9:10 p.m. Nathan Sikkila excavation continuation:

Mr. Brannon clarified that Mr. Sikkila is not a developer. He is building his primary residence at this location. They will commit to keeping all organics on site to restore the excavation and will post a voluntary bond for \$2,000 for reclamation as a function of the building permit. This is roughly a 2 acre disturbance, all the loam is going to be on site, and it is a self-contained site. There will be no

opportunity for degradation, erosion or sedimentation outside of the excavation area. Silt fencing for erosion control will be installed during construction of the road.

Ed stated he considered the concessions adequate and Bert agreed. Bert suggested the Board write a letter stating an excavation permit is not required, the removal of gravel is incidental to the construction of the house and the concerns of the Board for reclamation are addressed by the placement of a bond in the amount of \$2,000 to be returned on completion of the project and stabilization of the site.

David made a motion that the application for an excavation permit is not required but a Notice of Intent to Excavate is required to be filed. The Board will follow up with a letter to the applicant detailing the posting of the \$2,000 for reclamation of the project. Tim seconded the motion and it passed unanimously.

9:20:

Hours: Liz made a motion that the Board meet at 7:30 p.m. starting with the May 3, 2017 meeting. Deirdre seconded the motion and it passed unanimously.

Builders Land, Inc.: An abutter living on Jacqueline Drive has questioned when the road will be paved. Bert referred to a letter sent to Mr. Litchfield dated November 29, 2016 that says the work will be done by June 1. Bert will follow-up with a letter to Mr. Litchfield.

USA Properties: An email was received from Mr. Willis stating the proposed water supply is a small public water supply. Mr. Simpson received a copy of the letter.

Mapping: Bert mentioned a GIS presentation was made to the Selectmen a few months ago. A GIS system will provide information on the maps on buildings, roads, utilities, etc. Two options were presented, one for \$11,000 which keeps the maps we have now and the other for \$130,000 which involves reviewing all the deeds and redoing the maps. Bert asked if the Planning Board thought it was worthwhile to pursue a GIS system for the Town. The Board discussed the different systems.

Fire protection: Deirdre stated in order to attempt to settle the issue of the fire protection and shared costs for stand pipes, and trying to figure the costs, the Board has an obligation to meet with the Fire Chief to address the issue. David stated the Planning Board should develop criteria in the regulations stating at what point a developer should be required to take care of the cost. Suggestion was made to meet with the Fire Chief to discuss the issue.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,
Joanne Meshna, Town Administrator

