



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD

Thursday, March 21, 2024 – 6:30 p.m. – Town Hall Conference Room

Members Present: Morris Goodman, John McDevitt, David Moore, Steve Smith (Selectmen’s Rep), Frank Catapano (Alternate)

Members Absent: Bob Dion, Phil Dion, Steve Gerrato, Catie Medeiros (Alternate), Stu Gerome (Alternate), Richard Winsor (Alternate)

Staff Present: Mark Fougere

D. Moore opened the Planning Board public hearing at 6:30 pm. He announced a quorum was present and the meeting was being recorded.

1. Reorganization of the Board

MOTION: S. Smith moved to table the Reorganization of the Board until a full Board was present. Second – M. Goodman; all in favor. MOTION CARRIED

MOTION: J. McDevitt moved to appoint F. Catapano as a voting member for this meeting. Second – S. Smith; all in favor. MOTION CARRIED

D. Moore congratulated S. Toth on being elected as a Selectman. S. Toth’s resignation was accepted by the Board.

2. Projects of Regional Impact

There were no projects of regional impact.

3. Subdivision of Land, Conditional Use Permit

125 Dearborn Road (Map R12, 12: Residential Zone)

Owner/Applicant: Jay Lajeunesse - Dearborn Woods, LLC

The owner/applicant proposes to subdivide approximately 22.12 acres into a 13-lot residential subdivision. This will be a conventional subdivision with 11 single family homes and two duplex lots. The proposed road will be off Dearborn Road.

Paige Libbey, Jones and Beach Engineers, addressed the Board. Jay Lajeunesse, River Birch Builders/Dearborn Woods, joined the meeting by phone. They were before the Board in January and received a continuance from the February meeting in order to work through the comments from Altus Engineering. Many changes were minor and technical, and did not have an impact on the overall layout of the subdivision. The biggest change to the front lots, based on Altus Engineering’s comments, was the reconfiguration of Lots 1 and 2: the longer driveway for the backlot would be off the new road

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rather than Dearborn Road. The only driveway off Dearborn Road will be Lot 1; the location will be the same but it will not be a shared driveway.

There were changes to the grading plan. As a result of the site walk, the front rain garden was moved to the property line between Lots 1 and 3, taking it further away from the entrance. Grading works better resulting in less fill against the stone wall allowing some of the buffer trees in the area to remain.

A small depression has been added to the center of the cul-de-sac, allowing the road to be crowned so all the runoff is not sheet flowing off the cul-de-sac into the pond. It will go to the center and into the rain garden.

The cistern has been changed from fiberglass to concrete. That change was coordinated with M. Fougere and the Fire Department. P. Libbey noted that other cisterns in Town were concrete.

A phasing plan was included on the plan notes. The proposed phasing on the plan set does not include the cistern. The cistern should be incorporated into the phasing as to when Certificates of Occupancy can be issued for some of the lots based on when the cistern is constructed. P. Libbey stated they were proposing that the frontage lots 1, 12 and 13 be built without the cistern. It did not make sense to build the entire road just to get the three lots: they will not be on the new road. Phase I will be: Lots 1, 12, and 13; Phase II will be three additional lots on the subdivision road plus the cistern. Certificates of Occupancy could be issued in the second round of phasing on the new subdivision road once the cistern was built. The third phase would include the remaining lots.

P. Libbey noted the cistern location on the plan: it is a little over half-way up the road. Responding to a question from D. Moore, P. Libbey stated that there was a waiver request for the cistern requirements: Lots 1, 12 and 13 would not be sprinkled or have access to the cistern. This has been reviewed and approved by the Fire Chief. M. Fougere commented that the Regulations require a cistern for six or more homes; three would not meet that requirement. When they start building the road and before a Certificate of Occupancy can be issued for any of the lots on the new road, the cistern will have to be operational. D. Moore questioned if a line could be run from the cistern to the three lots in front in case of fire. P. Libbey stated that the requirement was 500 feet from the cistern to the driveway; she was unsure how far the hoses could reach. S. Smith stated the general rule was 1,000 feet.

J. McDevitt asked P. Libbey to discuss Item 25 on the Existing Conditions plan (Altus Engineering's comments). P. Libbey explained they have been trying to meet with the Wetlands Bureau. She was able to meet with Eben Lewis, DES; he was unsure about how to proceed. There is a Section F to the Army Corps, permitting requirements for potential previous impacts. P. Libbey was told it would only be filled out if there were potential impacts. The gray area is if looking for a determination. She is trying to get their wetland scientist to schedule a meeting with Eben Lewis.

D. Moore, referred to Item 34, Subdivision Plans (Altus Engineering's comments): J. Lajeunesse stated they had no intention of building a duplex but to build single family homes. M. Fougere noted that a duplex would be allowed due to the size of the property. The plan indicated a duplex lot; it should be removed if a duplex was not going to be built. P. Libbey stated that their response of February 28th satisfied the comment from Altus Engineering. They would like to have the ability to build a duplex; the lot meets the criteria for a duplex.

J. McDevitt questioned Item 57, Plans and Profiles, regarding the hand augers. P. Libbey explained there is a section in the checklist for Road Design Standards that requires hand augers at 100-foot intervals

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along the roadway center line. The test pits dig deeper than a hand auger and meet the intent of the Ordinance; 40 test pits have been done on the site, many of them close to the roadway center line. Many of the soil conditions on the property were very similar to the remainder of the property.

D. Moore opened the hearing to public comments, reminding those present that comments would be limited to three minutes and must pertain to the plan being discussed. Frank Manter, 158 Dearborn Road: Noted that the traffic study was done by the builder and not the Town. He was concerned that if someone was driving towards the Bay, there was not 150-feet to see someone making a left-hand turn onto the proposed street. He stated it was a hazard waiting to happen. This was creating something worse than it was before. Stephan Toth, 9 Palm Drive: During the site walk, three trees, if removed, would increase the site distance looking left when exiting the proposed road. He also questioned if the majority of new driveways would not be on Dearborn Road and reduce the number of curb cuts on Dearborn Road. F. Catapano responded that P. Libbey pointed out there would only be one driveway on Dearborn Road. M. Fougere noted there was a swale along the road; the detention pond was being moved down slope as requested by the Board. There will be a parallel swale along the roadway and the trees will be removed. P. Libbey commented there was a note on Sheet DM1 that the Shagbark Hickories in the right-of-way that lean toward the road interfering with sight distance would be removed. S. Toth suggested that a rain barrel be included on each individual lot: homeowners appreciate them, and they will help with the stormwater issues the Town faces.

D. Moore closed public comments and returned to the Board for further discussion. Waivers were reviewed.

MOTION: J. McDevitt moved to grant the waiver from Subdivision Regulations Section IV – General Principles and Design and Construction Standards for Subdivisions, Subsection 4.5 – Construction Standards, Paragraph 4.5.3 – Fire Protection Cistern Requirements, Item B4 – General Provision, which requires the cistern location to be no more than a 500-foot hose run from the access driveway. Three house lots with frontage on Dearborn Road and Stratham Lane will not meet the requirement but will be within 500-feet of the cistern. Second – S. Smith; all in favor. MOTION CARRIED

MOTION: J. McDevitt moved to grant the waiver from Subdivision Regulations Section IV – General Principles and Design and Construction Standards for Subdivisions, Subsection 4.4 – Design Standards, Paragraph 4.4.2 – Streets, Item A1 – Dead End Streets, which requires that the turnaround must have a minimum radius for outside curbs of at least 60-feet. The proposed road was designed based on Figures B and C, which contradicts another section of the Subdivision Regulations. Second – S. Smith; all in favor. MOTION CARRIED

MOTION: F. Catapano moved to grant the waiver from Subdivision Regulations Section IV – General Principles and Design and Construction Standards for Subdivisions, Subsection 4.5 – Construction Standards, Paragraph 4.5.1 – Streets, Item F – Side Slopes, which requires the minimum side slopes along the roadway to be 4:1 for a 4-foot high or lower slope. The proposed road was designed based on Figure A, which contradicts another section of the Subdivision Regulations. Second – J. McDevitt; all in favor. MOTION CARRIED

MOTION: F. Catapano moved to grant the waiver from Subdivision Regulations Section IV - General Principles and Design and Construction Standards for Subdivisions, Subsection 4.4 – Design Standards, Paragraph 4.4.1.1 – Conditional Use Permit, Item C – Backlot, which requires a maximum width of 20 feet. The applicant requests that the width be 50 feet to reduce the need for easements for construction and drainage. Second – S. Smith; all in favor. MOTION CARRIED

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MOTION: J. McDevitt moved to approve the Subdivision of Land and Conditional Use Permit for 125 Dearborn Road (Map R12, 12: Residential Zone), according to the plan submitted by Jones and Beach, Project No. 22260.2, dated 02.28.2024, with the following conditions. Second – F. Catapano; all in favor.
MOTION CARRIED

1. Address all outstanding comments outlined in the Altus Engineering letter dated March 6, 2024.
2. Library impact fees shall be due at the time of a Certificate of Occupancy: \$3,930 single family and \$4,080 per duplex unit.
3. A homeowner's association shall be established to oversee common areas such as street lighting, drainage areas (operation & maintenance details shall be noted), cul-de-sac maintenance and mailbox area. The Town shall not be responsible for these areas. Town Attorney shall review HOA documents.
4. A pre-construction meeting shall occur with the Town Engineer, Building Inspector, and the site contractor prior to any work on the site.
5. No site disturbance or tree cutting shall occur until all wetland buffers have been clearly marked and inspected by the Town Engineer/Building Inspector.
6. A road maintenance security bond shall be established for Dearborn Road and Stratham Lane to protect the Town should damage occur to those existing Town roads during project construction. The Town Engineer shall inspect those roadways with the applicant prior to any work starting and report existing conditions. Should the road(s) be damaged, in the opinion of the Town Engineer, the applicant shall be responsible for all necessary repairs.
7. The applicant shall obtain driveway permits to access existing Town roads with review/approval by the Town Building Inspector. Driveway culverts shall be installed if necessary.
8. Road bond shall be required prior to the issuance of any building permits off the new proposed road.
9. All stonewalls along Stratham Lane and Dearborn Road shall remain in place, except to allow a driveway onto a lot.
10. All State permits shall be obtained prior to project recording, including NHDES Subdivision and Alteration of Terrain.
11. All lot pins shall be set prior to a Certificate of Occupancy being issued or bonded.
12. All required easements shall be reviewed and approved by the Town Attorney prior to recording.
13. All proposed individual lot drainage designs shall be reviewed and approved by the Town Engineer prior to a building permit being issued for a lot.
14. The cistern shall be installed and operational prior to any Certificate of Occupancy being issued for lots accessed from the new Town road.
15. At all times the applicant shall maintain adequate escrow account payments to cover the cost of site inspections. Failure to do so may result in the withholding of building permits.
16. All waivers must be listed on the recorded plan.
17. The applicant shall submit a digital file along with a hard copy of the plan and a copy of the recording mylar that includes the recorded number assigned by the NH Registry of Deeds.
18. This plan is consistent with the Town's Site Plan Review Regulations and Zoning Ordinance.

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4. Wetlands Conditional Use Permit
141 Ocean Road (Map R21, 52: Industrial District)

Owner: Eversource Energy

Applicant: GZA GeoEnvironmental, Inc.

The proposed project includes the removal of transmission lines, the installation of a distribution line, replacement structures, and the retirement of the Resistance Substation. The proposed project requires approximately 27,925 square feet of temporary wetland impact for equipment access and work pad placement. There will also be 1,535 square feet of temporary buffer impact in the uplands for access and work pad placement.

Lindsey White, GZA GeoEnvironmental, Inc., and Kevin Lawson, Eversource Energy, addressed the Board. They were seeking a Conditional Use Permit for wetlands and wetland buffer impacts for maintenance work on the existing 3171 and 311 distribution lines. Those lines cross through Portsmouth and Greenland, starting on Ocean Road and run parallel to each other for a short distance before crossing over into Portsmouth.

The existing poles are wooden monopole structures (a single pole). Eversource plans to replace the poles with steel monopole structures due to the condition of the existing poles (cracks, wood rot, woodpecker holes, etc.). Steel poles have a longer life span and require less maintenance. The work would also consolidate two existing lines onto one alignment; both lines would be attached to the same pole.

Work will require temporary wetland impacts for access and work pads to the poles (existing and new), which will be removed. Eversource will utilize temporary matting to minimize and prevent the running compaction into the wetlands. Mats will be removed once construction is completed. The temporarily impacted wetlands will be stabilized with mulch and seeding as necessary.

The number of poles in the wetlands will be reduced: there are currently six poles and will be reduced to two poles in the wetlands and two at the substation within the 50-foot buffer. Responding to J. McDevitt, L. White stated that work has not been started in Portsmouth. S. Smith noted it was work that had been done previously and was complete.

MOTION: S. Smith moved to accept the application for 141 Ocean Road (Map R21, 52: Industrial District) as complete. Second – J. McDevitt; all in favor. MOTION CARRIED

The application has been reviewed by the Conservation Commission. L. White did not think they were doing anything to the substation in Greenland. M. Fougere noted that two poles were being replaced at the substation and were no longer in the wetlands. D. Moore commented there would be fairly minimum impact to the wetlands.

D. Moore opened the hearing to public comments. There being none, he closed public comments and returned to the Board.

MOTION: F. Catapano moved to approve the Wetlands Conditional Use Permit for 141 Ocean Road (Map R21, 52: Industrial District), according to the plan submitted by Eversource Energy, Project No.

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04.0191410.47, Dated October 2023. This plan is consistent with the Town's Site Plan Review Regulations and Zoning Ordinance. Second – S. Smith; all in favor. MOTION CARRIED

5. Post Construction Stormwater Management Ordinance

TA Sanderson updated the Board on the Post Construction Stormwater Management Ordinance. He was making progress with redrafting the Ordinance. TA Sanderson participated in a call with the NH Stormwater Coalition. The Board had been referring to the 2008 version of the NH Stormwater model. A 2024 revision of the stormwater manual will be released shortly. TA Sanderson will be incorporating the new 2024 stormwater manual by reference into the Post Construction Stormwater Management Ordinance.

TA Sanderson noted there are some significant drafting issues in the Town's Regulations from a regulatory standpoint. Rather than using directive language (example: shall), 'waffle' language is used (example: will). That language will be removed so it is clear, concise, and regulatory.

TA Sanderson plans to have the document available for the next meeting (Thursday, April 04th). He will also have it reviewed by Deborah Loiselle, Stormwater Coordinator at DES as well as the EPA to make sure it will meet their approval and avoid further administrative action.

6. Approval of Minutes

MOTION: J. McDevitt moved to approve the minutes of Thursday, March 07, 2024. Second – F. Catapano; four in favor, one abstained (M. Goodman). MOTION CARRIED

7. Consent Agenda

There was no Consent Agenda.

8. Other Business

Protective Bond for 125 Dearborn Road: TA Sanderson noted that even though there is a new statute regarding bonds, a protective bond will be required for Stratham Lane and Dearborn Road before construction begins. The bond will remain in effect during the entire construction period. The second bond does not need to be provided until a building permit is requested for the lots on the new road. The Board had required the bonds as a condition of approval, but it needed to be clarified when the bonds were required.

Tower Place Berm: M. Fougere received a request from Chinburg Builders, new owners of Summerwind Place, to install a berm along some of the units. It will be located along the tower side of the project adjacent to the highway. The Board received a copy of the proposed berm, which will be 100 feet long. The planting plan indicates evergreen will be placed on top of the berm.

J. McDevitt preferred to have them come back to the Board because it would affect the abutters. M. Fougere stated that it would not affect the abutters. It was clarified that the berm would be facing the highway on the back side of the project. F. Catapano did not think they needed to come back before the Board, it would be landscaping.

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MOTION: M. Goodman moved that Chinburg Builders, owners of Summerwind Place, did not have to come to the Planning Board to install a berm on the tower side of the project because it did not affect the abutters. Second – J. McDevitt; all in favor. MOTION CARRIED

Planning Board Attorney: The Planning Board Attorney, Sharon Somers - Donahue, Tucker, & Ciandella, is slowly stepping back and will probably be retiring at the end of the summer. TA Sanderson has recommended Steve Whitley, Drummond Woodsum. He has assisted the ZBA with a land use issue and is very good with land use. He also has access to a wide range of colleagues. M. Fougere will arrange a call with Attorney Whitley during the work session on Thursday, April 04th. M. Fougere will check with him for any potential conflicts. It was noted that many of the new attorneys at DTC do not specialize in land use.

Facebook Comments: S. Smith noted there have been some Facebook comments on Town issues. There was an article in Seacoast Online regarding the 125 Dearborn Road project. A resident commented that the planning of the project was not reviewed very well. M. Fougere noted that the project was before the Board for over one year and it was reviewed by the Planning Board Engineer who worked with the applicant's engineer to address over 90 comments. There was a Conceptual discussion, Design Review phase and the final phase; it was very thoroughly reviewed.

Alternate: J. McDevitt, addressing Heather Droesch, stated she could be an alternate to the Planning Board. H. Droesch was interested. F. Catapano explained the role of an alternate.

9. Work Session: Thursday, April 04, 2024

Suggested: Reorganization of the Board, phone call with Attorney Whitley, MS4 Stormwater Control Standards, Electric Vehicle Charging Infrastructure, and Subdivision Amendments.

8. Adjournment

MOTION: S. Smith moved to adjourn at 7:33 p.m. Second – F. Catapano; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, April 04, 2024 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant