

## Planning Board Meeting

September 3, 2009

Members of the Planning Board in attendance were Donald Rhodes, Vice-Chairman , Paul Eaton, James Graham, and Lynn Sweet. Donald Rhodes served as Acting Chair.

Meeting called to order by the Chair at 7:39pm at which time the Board was introduced.

A motion was made to accept the minutes from the August 6<sup>th</sup> meeting. The motion was seconded, there was no further discussion, it was voted to accept the minutes. The chairman reminded the audience regarding the rules of procedure at a public hearing and noted the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 P.M.

The announcement was made that the closing date for new applications to be filed for the agenda for the regular October 1, 2009 meeting will be 5pm on Tuesday September 15, 2009. Mr. Rhodes advised that he had received a request that the Board consider the second item of business, Graystone Builders, before Damara Mass, Inc. due to the projected length of discussion. The applicants agreed.

Old business:

Graystone Builders, Inc. is requesting that the Planning Board continue any further hearing on the application for conservation subdivision development as required by remand of the NH Supreme Court until resolution of the quiet title action regarding Birch Drive and Bunnell Drive. The Board may address the deadline for compliance with the condition that the quiet title issues be resolved that was imposed by the Board as Condition #1 in its Notice of Decision dated August 11, 2005, extended to May 1, 2008 by vote of the Planning Board at the June 7, 2007 meeting, and further extended by vote of the Planning Board at the April 3, 2008 meeting. (17-lot Conservation Development subdivision, Bunnell Drive (Tax Map 3, Lot 2, Owner: David B. Smith) This item is continued from the regular August meeting. David Smith was present. Several abutters were also present.

The Acting Chairman advised that it was his understanding that the public hearing was closed and that this meeting is not an opportunity for public input. Donald Rhodes and Lynn Sweet advised that even though they did not attend the August meeting they have reviewed the minutes, briefs from the attorneys, and taken part in the conference call with the town attorney. Paul Eaton advised the Board that he did not take part in the conference call but had attended the last meeting, noting briefly the long history of extensions. After brief discussion, James Graham made the following motion, prepared in advance: To grant a stay, or continuation, as requested by Graystone Builders, of further review of the application of Graystone Builders for a Conservation Subdivision, as required by remand of the NH Supreme Court, until final resolution of the pending quiet title action regarding Birch Drive and Bunnell Drive. Further, to grant an additional extension to Condition #1 in the Notice of Decision of Conditional Approval of the conservation subdivision dated August 11, 2005; this extension will expire at the end of the May 6, 2010 meeting of the Planning Board, and is granted subject to the condition that any further extension thereafter must be requested in writing and received by the Planning Board no later than April 5, 2010. This extension is being granted because the delay in resolving the quiet title legal action has been caused by factors inherent in the legal system and the applicants have made a good faith effort to make progress therein, and further because up until this point, there have been no changes in the regulations and ordinances of the Town of Strafford that would make the conditionally approved project non-conforming. Lynn Sweet seconded the motion.

The Acting Chairman then opened the discussion. Paul Eaton said that he felt that the remand did not dictate granting an extension. He noted that the applicants had been told at the outset that they were proceeding at their own risk. He said that he feels that the extensions have placed the burden on the abutters, and also noted that items requested by the Board at the last extension, such as quarterly updates, had not been provided. He suggested that the application would need work if it came back to the Board and that he feels that a new application would be appropriate. Lynn Sweet said that the delays were not all one-sided; noting that there are two sides as well as the legal system. Jim Graham noted that he had originally agreed with Mr. Eaton's position, but had changed his mind. After further discussion among the board, Mr. Rhodes called the vote. There were three aye votes and one nay vote. The motion was passed by majority vote of the members present.

Major Subdivision (over 3 lots)

Damara Mass. Inc, 6 lot subdivision, Canaan Rd and Back Canaan Rd (Tax Map 4, Lot 83-1)

The Application has been accepted. A number of abutters were present. Randy Orvis and Ron Haskell of Geometres Blue Hills presented all the requested revisions to the Board in response to the August meeting. Mr. Haskell reviewed the changes made in response to the report from the town's consulting engineers, working item by item through the report, addressing zoning, drainage, road design, erosion control, and general layout. Mr. Orvis noted that they found the old farm dump and said that it had been 30 or 40 years, he thought, since anything had been added to the dump. There is an old vehicle in the same area. Don Rhodes noted that the Board should decide if they want to send the plans back to have the consultants review the revisions.

The Acting Chairman then opened the public hearing. Area residents voiced concerns in regards to paving of the road, street lights, lot size, and the impact that the development might have on neighboring wells. Abutters were advised that studies of the impact on wells was not typically required. They were advised to test their wells before development to establish a baseline in case of problems. Back Canaan Road is classified as a scenic road. Board members agreed that they would need to decide whether to request paving of Back Canaan Road to the road entrance, and all agreed that a Public Hearing would be required under the Scenic Roads Ordinance before paving could go forward.

Public hearing was closed. The Board felt there should be a notation of the dump area on the plan when recorded so any purchasers would be aware of it. Don Rhodes then noted that the question of cisterns has never come up, and that there is nothing in the plans regarding fire protection. Randy Orvis suggested that requirements for sprinklers in homes would be into effect within a couple of years, and suggested that they would prefer to add a requirement that these homes be sprinkled rather than try to locate and construct a cistern. It was agreed that there is a need to defer the questions of sprinkler vs. cistern to the Fire Chief and to make this a condition of approval. There was also mention of speaking with the road agent about paving vs. not paving because of the increased usage. All Board members agreed that a hearing would be needed if paving was proposed. After some discussion of the possible requirements and possible conditions of approval, it was requested that both road agent and fire chief be contacted regarding these issues before the next meeting.

Jim Graham then made a motion to table the application until the next meeting when feedback from fire chief and road agent has been received and to send the revised plans to the engineers. Paul Eaton seconded the motion, there was no further discussion and the vote was unanimous in the affirmative.. Paul Eaton advised the applicants that he feels that the application is getting close.

New business:

Minor sub division (3 lots or less): SYT Revocable Trust, 3-lot subdivision, Back Canaan Road (Tax Map 4, Lot 91) Lynn Sweet excused herself from this discussion.

Sheila Holmes, Trustee for SYT Revocable Trust was present accompanied by her husband. A number of abutters were also present, including the Sparrows, the Passwaters, and Jean Chartrand, as well as other residents of Back Canaan Road. Jon Berry of Berry Surveying and Engineering presented the plans to create two new lots fronting on Back Canaan Rd. (Tax Map 4, lot 91). Jon Berry advised the Board that the property has been given two tax lot numbers divided by the PSNH easement area, but both lots are part of the same deeded tract, so Lots 21 and 91 are one and the same. The two new lots on Back Canaan Rd are on the far side of the PSNH easement. A small remainder piece of Lot 91 along Back Canaan Road near the sharp corner will be retained for access and will be added back to Lot 21 and does not constitute a separate lot. Noting that the two lots will be very shallow given the distance between Back Canaan Road and the PSNH easement, Jon Berry presented plans that moved the rear property line back beyond his original propposal, giving each lot 25 ft. of additional building area by moving the rear non-buildable setback under the power lines.. Wetlands have been marked by a certified wetlands and soil scientist. Lot 91 will have 2.01 acres of upland and Lot 91-1 will have 2.17 acres of upland. The plans show a potential 30 by 70 building envelope to show that building on the lots would be feasible. In keeping with PSNH regulations, there would be no immediate impact to the power lines. Driveways have been proposed and marked for both lots taking into consideration visibility of traffic, wetlands, stone walls and scenic trees. Soil sheet has been given to the Board. The first new driveway cut would be opposite the joint driveway for Lots 83-1-3 and 83-1-4 because of sight distance. Application has not been filed with the State of NH WSPCC for subdivision which is necessary.

Board members then reviewed the plans with the checklist. Don Rhodes requested that the town's wetlands buffers be shown on the plan so that it is known that those areas cannot be cleared. The following items were found to be missing and/or need clarifications: note that the building envelope must be within the 60% contiguous uplands area; make the septic setback line bolder; wetlands buffers should be shown; and the remaining area should be identified as part of Lot 21. Disucssion turned to the 25 foot area under the PSNH easement. Although this creates a larger building envelope for each lot, Board members suggested that it might cause confusion regarding the easement area. After discussion, it was agreed that Board members would prefer that the rear lot line end at the easement to prevent any encroachment on the easement area. Sheila Holmes agreed to shift the proposed line back to the edge of the easement. Board members agreed that the lots will still meet zoning requirements without the 25 feet, and that is what matters. Paul Eaton then made a motion, seconded by Jim Graham, to accept the plans as complete for consideration, conditional upon the completion of the items noted above. There was no further discussion and the motion was passed by unanimous vote of the members sitting for this application.

The Acting Chairman then opened the public hearing. A concerned abutter asked about the scenic road status and tree cutting. Board members explained that the scenic road statute only pertains to the ROW for the road, and does not restrict the rights of property owners on their own land. There is also concern about future development of this property. There was concern of the potential loss of property value by opening up views of the power lines and abutters requested a restriction be placed on the type of buildings that can be built on the property. It was noted that only the owners would have the right to place covenants on the lots, and Mrs. Holmes indicated that they did not intend to place any restrictions on the type of buildings. Area residents were very concerned about the removal of trees because of the scenic road status of Back Canaan Road. Concerns were voiced about the health effects of the power line. Board advised that that is not an area they are responsible to. The Board agreed to have a site walk, which was scheduled for 6:00 p.m. on Septembr 17<sup>th</sup>, 2009.

Following the scheduling of the site review, Don Rhodes advised the neighbors that the Board would keep the public hearing open and continue the discussion to next month. Jim Graham then made a motion to table the application until the October meeting. The motion was seconded by Paul Eaton. There was no further discussion and the vote was unanimous in the affirmative.

The next order of business was a request for voluntary merger in accordance with NH RSA 674:39a from Travis A. and Melinda A. Towne. They hope to merge three lots that they recently purchased together located on Old Ridge Road (Tax Map 7, Lots 14, 15A and 15a-1). The Board briefly reviewed the request and agreed that the merger would not violate any zoning requirements and would improve the situation by eliminating a back lot. Jim Graham then made a motion, seconded by Lynn Sweet, to approve the request for voluntary merger. The Townes will receive a letter and the merger notice to be recorded at the registry of deeds.

There being no further business it was moved, seconded and voted to adjourn at 10:05 pm.