

Minutes

Planning Board Meeting

December 1, 2011

Members of the Planning Board in attendance were Charles Moreno, Chairman, Jim Graham, Terry Hyland, Lynn Sweet, Mark Whitcher, and Don Rhodes, Alternate member.

The Chairman called the public meeting to order at 7:30 PM and announced the members present. The closing date for applications to appear on the agenda for the January 2012 regular meeting is 5 p.m., Tuesday, December 13, 2011. The Chairman advised the audience that the agenda for the evening is long and reminded the audience that the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 PM. It was agreed to postpone consideration of the minutes until after the formal business.

There were a number of items of continuing business for this evening's meeting. The Chairman advised the audience that Berry Surveying and Engineering has submitted a letter requesting the continuation of the following applications to the January 2012 meeting: the application of JANET CHASSE PREVATT AND TERRY PREVATT for 3-lot, revised to 2-lot, subdivision of their property located at 79 Ridge Farm Road (Tax Map 15, Lot 22); the application of GARY F. and SYLVIA YEATON for 3-lot subdivision of their property located on First Crown Point Road (Tax Map 18, Lot 24-2) and the application of MARK and JUDITH WHITCHER for 8-lot subdivision of their property located on Province Road (Tax Map 1, Lot 14).

The first item of continuing business for discussion this evening was the application of R. STEPHEN LEIGHTON for a renewal of his permit for Excavation of Earth in accordance with NH RSA 155-E for property located on Sloper Road (Tax Map 12, Lots 52-2 & 52). Mr. Leighton was present as were a number of abutters and neighborhood residents, including Irene Abels, the Laurions, and the Edmonds. The Chairman began by briefly reviewing the site review held on November 6th, which had been attended by many of the abutters. He noted that the Board conducted the site review to address five issues: concern with sedimentation entering the Mohawk River; buried debris; debris brought into the site; the steep slope along the southerly boundary; and hours of operation. He noted that the site review had indicated that there is a stable berm and vegetated buffer between the operation and the river and no signs of any flooding; that the Board had seen a few items of debris on-site that would be removed shortly, and that the Board had seen the piles of egg shells, cow manure, loam etc. brought on-site for reclamation. It was noted that the southerly slope has been built at 2:1 as agreed and has been vegetated, and that all had agreed that one area that had slumped would be fixed but that the work would need to happen in the spring. Regarding hours of operation, Mr. Leighton suggested that he would like to change the hours to eliminate work hours on Sunday and allow 7 to 7 Monday through Saturday. There were no questions from Board members, so the Chairman opened the discussion to abutters.

Irene Abels began by asking if the application was for a one-year or five-year renewal, and then proceeded to read a letter addressed to the Board, copy provided for the files. In her letter, Mrs. Abels requested copies of various documentation from the state permits granted for the excavation and asked for information on financial guarantees. She further asked for a one-month continuance so that the updated reclamation plan that she and Mr. Leighton are drafting can be completed. She further asked that the Board consider granting only a six-month permit at this time to allow time for the Board to pull together the various documents that she has requested. She then listed her concerns, and further asked for site visits by the Board every two or three months to ensure that erosion control measures are in place. She requested 7AM to dusk operating hours, and asked that Sunday be reserved for reclamation work only. She advised the Board that the initial agreement between herself and Mr. Leighton only ran through December 2010. In closing, she said that she hopes that all parties will work toward completion of the project, and said that she hoped to enjoy her yard this coming summer.

Board members responded, with Terry Hyland asking about the tires. Mrs. Abels said that she had found 4 or 5 and had alerted Mr. Leighton. Board members noted the small debris pile that they had seen during their site visit, and it was noted that more items are found from the old farm dump as the excavation proceeds. Board members all agreed that they had only seen a small amount of debris on-site, and agreed that they had not seen any indication of foreign objects brought onto the site. Mr. Moreno noted that the 2:1 slope on the side boundary was steep but built per the

original permit. Mr. Leighton advised that he intended to fix the area where the fill is slumping. He also noted that he is in compliance with the state regarding rate of excavation and reclamation. Mr. Moreno advised that the Planning Board does not check for compliance with state permits and does not have the authority to enforce permit conditions. Lynn Sweet noted that NH DES issues the permits and would enforce them. Mrs. Abels asked about the local role. Ms. Sweet advised that the Board's review was to respond to any letter that arrived and said that she knew that none had arrived in the last two years. She also noted that the permits will need to stay open for Mr. Leighton to continue with the reclamation work. Jim Graham asked if there was any end date to the DES permit. Mr. Leighton indicated that the permit is still open and that any agreements between himself and Mrs. Abels regarding the part of the excavation area on her property are a separate issue from the state permit. Mr. Leighton noted that the official reclamation plan does not show a pond, but that the final agreements included a pond because the previous owner of Lot 52 wanted a pond. He noted that he could reclaim Lot 52 to the original plan, but that digging the pond will take more time. It was noted that Mrs. Abels is hoping for a larger pond, which will take more time to complete. Mrs. Abels again asked that any permit extension be limited to six months. The Chairman asked Mr. Leighton if he still has land left to excavate. It was noted that the new excavation is on Lot 52-2, owned by Mr. Leighton. Mrs. Abels is hoping to have the reclamation of her lot completed and wants the pond done and is concerned about safety issues for neighborhood children. It was noted that the truck access now crosses Mrs. Abels' lot, but she agreed that Mr. Leighton had said that there is an alternate plan for truck access, so that is not an issue.

Weighing the various concerns expressed, Jim Graham noted that the permit renewal application is for 5 years, and Mrs. Abels is asking for six months. He asked if one year would be more appropriate, because it would give Mr. Leighton time during the good weather to work on the reclamation. He suggested that by next November, the reclamation of Mrs. Abels' lot might be completed. Jane Laurion asked about the bonding. Lynn Sweet agreed that the bond will be researched, but noted that any bonding could only be used if the pit was left unreclaimed and the excavation abandoned. After discussion, Mrs. Sweet suggested a one-year renewal with a six-month status review. Mr. Leighton noted that materials dug from the pond area take about a month to drain sufficiently to be used for reclamation elsewhere, and he advised that he had told Irene Abels that he intended to have the reclamation well underway by August 1st. How soon he can begin work in the spring depends on spring flooding, he noted. Lynn Sweet suggested that within the six months he could get the paperwork to the Board; Steve Leighton said that DES shows up two or three times a year for inspections and said that he assumed that they would have reports on file. Discussion turned to operating hours. The Chairman noted that there are complaints about early operating hours on the weekends. Jane Laurion said that she would be okay with Saturday hours if no Sunday hours. Indra Edmonds said that she would be okay with reclamation work on Sundays, but it was agreed that this was not applicable. There being no further discussion, Lynn Sweet made a motion to grant a one-year extension of the permit with a six-month timeframe for plans and documents to come in for the files and the submission of a new reclamation plan to be agreed upon by Mrs. Abels and Mr. Leighton, with operating hours from 7 to 7, Monday through Saturday only, no Sunday hours. She clarified that the year would extend from November to November. Mark Whitcher seconded the motion, there was no further discussion. The vote was unanimous in the affirmative.

The next order of continuing business was the application of WALTER M. and CORNELIA UNGER for the two-lot subdivision of their property located at 10 Pumphouse Road and Bow Lake Estates Road (Tax Map 23, Lot 63-7). Steve Ferguson of Norway Plains Survey Associates presented revised plans and a waiver request. Don Rhodes recused himself from the discussion. The Mosses, abutters, were present. The applicant is requesting a waiver to street construction requirements to allow 20 feet in width and no pavement. Board members agreed that they would like to see contours for the road area. Steve Leighton said that they need to be sure that the road will crown. The Chairman noted that the wetlands review was the primary reason that the plan was not accepted in November. Board members reviewed a letter from Barry Keith, wetlands scientist, who said that he had done a reconnaissance level review and that the wetlands are accurately shown on the plan. Board members asked Mr. Ferguson what a reconnaissance level review meant. Mr. Ferguson said that he had looked at the property and checked a depression area to see if it had become wetlands, but said that he thinks that he did not re-flag the wetlands areas. Speaking for the Board, Lynn Sweet said that she would like a better definition of a reconnaissance level survey. Jim Graham noted that the plan seems to suggest that there are enough uplands, with one lot at 2.0 acres and another at 3.9 acres of contiguous uplands. Board members reviewed the revised plans and asked for a better legend, especially regarding the wetlands protective zone. Jim Graham then made a motion to accept the plans as complete for consideration; Mark Whitcher seconded the motion, there was no further discussion and the vote was 3 in favor with one abstention.

The Chairman then opened the discussion to abutters, noting that the formal public hearing will take place at the next meeting. Christina Moss then asked that the Board grant no waivers to the street construction standards except paving, noting concern over drainage. Mr. Moreno noted that the other waiver is for width, which the Board would consider because of low use. Mrs. Moss asked if areas less than 75 feet in width are considered part of the buildable area of the lot. There was a brief discussion of the subdivision regulations regarding minimum width. Finally, there was a brief discussion of what the Board would like to see from Barry Keith. Lynn Sweet said that she would like to see a bullet list of what Mr. Keith had done on-site, and how he knows the wetlands delineations if there are no remaining reference points. Further discussion will take place at the next meeting.

The next order of continuing business was the application of HERMAN and JEANNE GROTH for boundary adjustment between their properties located at 837 Parker Mountain Road and Mousam Road (Tax Map 10, Lots 14, 20 and 21 and Tax Map 14, Lot 1). Randy Orvis of Geometres Blue Hills presented the application; Mr. Groth and Al Pratt and Irving Johnson and his daughter, abutters, were present. Mr. Orvis advised the Board that they have reconfigured the proposed lots because the Board did not like what they brought last month. Mr. Moreno noted that the Board had had several concerns about last month's proposal, including the dog leg connecting strip, now eliminated, the lots running across the road, and use of Mousam Road as an access. Mr. Moreno noted policy not to approve new subdivision on Class VI roads, and the requirement that the roads be brought up to current standards if any Class VI portion of a road is used for frontage. He noted that a waiver agreement must be signed in order to use Class VI road frontage for a building permit. However, this application is for boundary adjustment, rather than subdivision, and the property already has frontage on Mousam Road. Jim Graham noted the difference between lot line adjustment and subdivision, and said that the new proposal improves the lots considerably and will make the small lots by Route 126 more conforming. Mr. Groth agreed that probably all of the proposed lots, if developed, would require a waiver under RSA 674:41, and agreed that development would probably require improving the road with turn-outs. It was agreed that there are other year-round homes on Mousam Road. Al Pratt advised the Board that he and Steve Smith maintain the road now. Steve Leighton noted that Mr. Groth could pull a permit for development of his properties from Mousam Road now, before lot line adjustment, so the adjustment would not change the situation. Regarding the lots crossing the old Parker Mountain Road section, Mr. Leighton suggested that a warrant article be included for Town Meeting to abandon this small section of road, which would eliminate the concern about the lots crossing this road. Several other small pieces like this created by the layout of Route 126 over Parker Mountain Road have been abandoned. Mr. Moreno expressed concern about consolidating a lot across a road, and said that he did not think that there was any precedent for this. Don Rhodes expressed concern about increasing development on Mousam Road, which he noted is a substandard road. Al Pratt expressed concern about people moving into the newly configured lots and using the road that he and Steve have built and maintained without having contributed to the work. Mr. Groth said that it would be the responsibility of the landowners, but said that the Town cannot force the property owners to create an association for road maintenance. Lynn Sweet advised the group about the Class VI road policy, which requires contributions to road maintenance. Jim Graham noted that there is less concern about precedent, given that this is a lot line adjustment, and that any development of this land would have been off Mousam Road in any case. Don Rhodes suggested that it is a stretch to consider this a lot line adjustment, and noted that the Board typically requires private road or Class VI frontage used as part of the frontage for a development to be upgraded, as with Ridge Farm Road. Randy Orvis noted that Mousam Road has a narrow ROW and would be difficult to upgrade to town specifications. Al Pratt asked if Mr. Groth would give an easement to the town to allow an upgrade if needed. Board members again reviewed the plans, noting that two of the proposed lots have frontage on Route 126, and another already only had frontage on Mousam Road. The Chairman then opened the public hearing on this application. There were no additional comments. The Chairman then closed the public hearing, and summarized the comments: there is concern about lots crossing the road, but having approval contingent upon discontinuing the road would clean up the problem; there is concern about adding additional development to Mousam Road, but the current plan only reconfigures one lot that would now take frontage from Mousam Road, and he noted that because of the lot line adjustment there are mitigating factors regarding the Class VI road. After brief discussion, Mark Whitcher then made a motion to approve the lot line adjustment, contingent on going to town meeting for discontinuance of Old Parker Mountain Road and a note to state that the access for Lot 14 would be from Route 126. Jim Graham seconded the motion. Steve Leighton suggested that there be no maintenance easement required along Mousam Road; Herman Groth noted the scenic stone walls but suggested that development would require making a turn-out spot. There were no additional comments and the Chairman called the vote. The vote was majority in the affirmative with no nay votes.

The next item of continuing business was the application of MARK and JUDITH WHITCHER for boundary adjustment between their two properties located on Wild Goose Pond Road (Tax Map 1, Lot 6-6) and Province Road (Tax Map 1, Lot 14). Chris Berry of Berry Surveying and Engineering advised the Board that they have spent time looking at the uplands on Lot 6-6 and they feel that there are 5.4 acres of uplands on the lot. In order to address concerns about the narrow strip

connecting to Lot 14, they would like to reconfigure the adjustment and add Lot 6-5 to the area. This would give a wider strip with more of the wetlands to the new subdivision.

The first item of new business was the application of the REBECCA A. WHITCHER TRUST for the modification of a Non-Residential Site Plan for the construction of 25,000 square foot building for commercial printing and shipping for AMI Companies (Tax Map 4, Lot 14). The site plan was originally approved August 14, 2007 for a 30,000 square foot building for National Fiber. David Whitcher presented the application; Eric and Peter Wensberg of AMI were present, Mike Whitcher and Steve Leighton, abutters, were also present. David Whitcher began by handing out copies of the originally approved plans. He then showed the proposed modifications, with a reduction to a 25,000 square foot building, more parking, a slightly different configuration allowing a truck bay on the rear, and slightly less impervious surface. He noted that three approvals necessary to the project expired and are now being renewed: Natural Heritage review; DOT driveway permit and deceleration lane permit; septic system design approval. He noted that that Natural Heritage has been renewed; DOT has issued a letter saying that they expect to renew and AMI have submitted a letter regarding their traffic patterns; and David Allain has submitted a renewal for the septic design, which was originally designed for 20 employees and has been submitted with no changes in proposed use. He noted that the revised impervious surface calculation is down from 54,877 sq. ft. to 53,491 sq. ft. The proposed lighting is the same as the previous plan, which included down-cast lighting. The proposed fire suppression system is also the same. The Chairman advised that Mr. Whitcher should confer with the Fire Chief to be sure that the fire plans are up to date. In response to questions, Mr. Whitcher advised that they have shown with templates that a tractor-trailer can turn in the rear, although it may be tight. They are increasing the number of parking spaces to 28 so they can distribute cars now parked in the front of the building. Reclamation of the old gravel pit area beyond the parking lot is still included as part of the project, as is the completion of the boundary adjustment originally agreed between the Whitchers and AMI as part of the National Fiber plan.

Don Rhodes asked if they would need a DES Alteration of Terrain permit, and asked Mr. Whitcher to compute the total disturbed area for the project to be sure that they are meeting permitting requirements. The original EPA permit for disturbance should still be good. Peter Wensberg spoke for AMI, and advised the Board that AMI will not be doing anything more than they do now; however, the new space will allow them to be more competitive by allowing them the space to make the very large signs that many sports venues now require. He noted that they also need additional raw storage area where they can control temperatures. He noted that their business is growing steadily, but the new building will relocate production rather than increase traffic. Regarding waste disposal, they have a dumpster on-site and scrap vinyl is baled and taken away separately. They use non-hazardous inks, and waste ink is removed in a 55 gallon drum once a month. Don Rhodes, reviewing the plans, noted that the new building will have a single slope roof and all the drainage will go toward one side. They have replaced the 3 drainage basins with one swale, but he noted that the plan seems adequate. Finally, Mr. Whitcher asked the Board, if they approve the modification, to issue a letter for the benefit of the applicants and the Zoning Board of Adjustment. The Chairman then opened discussion to the audience. Steve Leighton spoke in favor; there were no additional comments. Jim Graham then made a motion to accept the plans for modification of the site plan as submitted. Lynn Sweet seconded the motion, there were no additional comments and the vote was unanimous in the affirmative. The Chairman then opened the public hearing; there were no comments. The Chairman closed the public hearing and noted the two issues noted by the Board—conferring with the Fire Chief and calculating total disturbed area to meet NH DES AOT permitting requirements. Jim Graham then made a motion, seconded by Lynn Sweet, to approve the Modification of the Non-Residential Site Plan per the plans dated November 30, 2011, conditional upon meeting with the Fire Chief and calculating total disturbed area and meeting AOT permit requirements if needed. There was no further discussion and the motion was approved by unanimous vote.

The last item of new business was the application of GEORGE and BONNIE BROWN for 2-lot subdivision of their property located on Parker Mountain Road (Tax Map 10, Lot 10-2). Randy Orvis presented the plans; Lynn Sweet recused herself from the Board for this item and Don Rhodes left the meeting, noting that it was already past 11 PM. George and Bonnie Brown were present; Al Pratt, and Irving Johnson and his daughter, abutters, were also present. It was noted that George Lovejoy, an abutter, had submitted correspondence for the files regarding the unknown location of the rear boundary. The plans focus on the new 20.14 acre lot including the existing home to be split from the front of the property, leaving an 80 to 100 foot wide connecting strip between Route 126 and the large 156 ± acre remaining tract to the rear. Both lots would have 200 feet of frontage on Parker Mountain Road/Route 126. Mr. Orvis submitted a request for waivers to the requirements for full survey, topography, wetlands etc. on the larger tract of remaining land. Jim Graham noted that the Board had proposed a back lot ordinance specifically to allow subdivisions such as this, but that the ordinance had been defeated by the voters. Board members noted that this proposal again includes a connecting strip, which would not be allowed under Article 2.6.2.

Mr. Orvis suggested that the long narrow strip exceeds the minimum 75 foot width specified in the regulations and would thus meet the requirements.

The Board then reviewed the plans with the checklist. The following items were missing and/or need clarifications: current use note; plan set note; and the Heselton driveway. It was noted that test pits are missing but are listed on the request for waivers. Mr. Orvis said that he believes that the plan is to use Mousam Road for access to the rear of the property, but said that they need to either use Parker Mountain Road for frontage, as they have shown, or they would need to show extensive upgrades to Mousam Road for frontage. Lynn Sweet advised that the connecting strip is an old cart path to the rear, which is a logical connection to Parker Mountain Road, and that there is one wetlands crossing. Mr. Orvis noted that he has requested waivers to the various requirements for the larger parcel because it is so big, and said that the property description for the remaining tract will not change, so the rear boundary problem should not impact the subdivision. Jim Graham asked if the property was over 800 feet in elevation, noting that they would then need to show a full 5 acres of buildable land to meet zoning requirements. Board members agreed that there is not enough information about the proposed connecting strip to the rear tract, and some Board members suggested that widening the strip would reduce the burden of proof for the back lot. It was noted that the 20 acre parcel had been designed to include the yard area around the existing home, which is why the connecting strip narrows as it passes this area. Mrs. Sweet noted that the applicants hoped to complete a real estate transaction before the end of the year, and asked if the Board would be willing to look at this application in a work session later this month. After extensive discussion, it was agreed that a work session was not likely to be scheduled, and that regular business is addressed at regular meetings. Mr. Orvis was advised to provide more information on the connecting strip area, possible wetlands crossing, and to look at ways to increase the width of the area, if possible. Discussion of this application will be continued to the next regular meeting.

There being no further business before the Board, it was moved, seconded and voted to adjourn at 11:50 pm.