

Minutes

Planning Board Meeting

April 5, 2018

Members of the Planning Board in attendance were Charles Moreno, Chairman, Don Clifford, Steve Leighton, Scott Young, ex-officio member, and Donald Coker, Alternate member. The Chairman opened the meeting at 7:30 PM and announced the members present. The closing date for applications to appear on the agenda for the May 2018 regular meeting is 5 p.m., Tuesday, April 10, 2018. The Chairman advised 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 and that the meeting will adjourn by 11:00 PM. It was agreed to postpone consideration of the minutes until after the formal business due to the large audience.

The first item of continuing business was the application of CECIL C. ABELS II for Non-Residential Site Plan Review for a Concert and Outdoor Event Venue to be located at his property at 664 First Crown Point Road (Tax Map 19, Lot 73A). Cecil Abels was not yet present; it was agreed to postpone this item until later in the meeting.

The Chairman noted that first and only item of new business was the application of CALVIN and PENNY SCHROEDER for the 2-lot conservation subdivision of their property located at 138 Perry Road (Tax Map 9, Lot 73) and that Cal Schroeder contacted the Board and requested continuation until the May meeting; there were no abutters present.

The Chairman then moved onto the second item of continuing business, the application of CLEAR CREEK PROPERTIES, LLC for a 10-lot conventional subdivision of the 56.02 acres of the former Froio property located south/east of the power lines on Strafford Road/NH Route 202A and Second Crown Point Road (Tax Map 16, Lot 30). Bernard Cote of Geometres Blue Hills presented the application; he was accompanied by Atty. Elizabeth Nolin. Alan Williams of Clear Creek Properties LLC was also present. The Chairman briefly reviewed the status of the application, noting that the application had been accepted as complete at the last meeting and that the public hearing would be opened this evening. Bernard Cote then presented the revisions made to the plans since the last meeting, briefly reviewing the project. They are proposing 10 lots; 5 would front along Strafford Road/Route 202A and 5 along Second Crown Point Road. The revised plan set includes two new sheets, Sheets 7 and 8, which provide details of the proposed shared driveways along Route 202A—proposed contours are in fuchsia and profiles and stations are shown. NH DOT has granted permits for two driveways. Sheets 1 and 2 are designed for recording and show the lots; Sheet 1 focusing on Second Crown Point Road and Sheet 2 on Route 202A. Sheets 3 and 4 are full color and show the 4K areas for septic, test pit data, topography, and building and septic setback lines. Sheets 5 and 6 show buildable areas and steep slope areas and include calculation tables for buildable area. Donald Coker asked how the calculations for buildable area are rounded. Mr. Cote explained how they round the numbers to tenths of a square foot. Both Don Clifford and Donald Coker expressed concern that Lot 30-3 would not meet the contiguous area requirements because the buildable area on this lot is bisected by the proposed shared driveway. Steve Leighton and Terry Hyland both expressed the opinion that the shared driveway easement would not affect the uplands calculations. Atty. Nolin submitted a pre-prepared memorandum on the question and also advised Board members that she had hand-calculated the buildable area numbers to confirm the results. Don Clifford asked if house locations had been determined. Mr. Williams indicated that they would decide after the driveways are built. Steve Leighton advised that the Fire Chief will need to take a look at the driveway plans to see if they meet the needs of the Fire Department for access to all of the lots. Mr. Leighton also noted that the test pit results are better than expected. Don Clifford asked Mr. Williams if he would be willing to work with the Board to design shared driveways for the Second Crown Point Road frontage so that the new homes could be staggered rather than all built right at the front yard setback line—he suggested the shared driveways could extend farther off the main road because of the shared expense. Alan Williams said that he had been willing to give up more if the Board agreed to his conservation subdivision proposal but that he is not willing now; he indicated that he intended to build five driveways off the Second Crown Point Road frontage, but that he would stagger the setbacks from the road. There was no further discussion. The Board scheduled an on-site review for Thursday, April 12th at 6PM.

The third item of continuing business was the application of CLIFFORD J. WILLIAMS for 2-lot subdivision of his property located at 1062 Parker Mountain Road (Tax Map 11, Lot 34). Rene Masse presented

revised plans to the Board; Terry and Ben Bickford and Carolyn Clarke, abutters, were also present. Mr. Masse presented their application for the wetlands crossing to the rear of the property and noted that the Conservation Commission had suggested a narrower crossing than they had originally proposed. They have redesigned the crossing and the proposed shared driveway access to the rear of the property and the wetlands permit application is under review by DES. Their surveyors have made additional corrections to the plans as requested by the Board, including mapping the exposed ledge. As a result, lot areas have been recalculated; the new lot would now be 2.32 acres in area with 87,913 square feet of uplands, and the lot with the existing home would be 3.93 acres in area. Perc test results are shown on the plans and test pit logs have been submitted. Mr. Masse will bring a copy of the driveway permit from NH DOT for the files. All missing items on the checklist have now been addressed. Don Clifford then made a motion to accept the application as complete for consideration. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

The Chairman then asked Mr. Masse to present the revised plans to the audience and opened the public hearing. Carolyn Clarke asked if there are regulations governing blasting, noting the large amount of ledge in the area. She said that she is concerned about her well. The Bickfords said that they also share this concern. Steve Leighton advised that the blasters have a long list of state regulations and he advised that the abutters should make it known that they want the blasters to meet with them. Board members suggested that they document their well and speak to the blasters, and then the blasters would be liable for any problems. Mrs. Clarke asked if they should have flow tests done before there was any blasting, and the Board agreed that it would be a good idea because it would give grounds for a claim. Don Clifford suggested that the state might be able to provide testing. Board members asked Mr. Masse if they have decided where buildings would be located; all agreed that it would be determined by the test pit results. The abutters agreed that their main concern is with their wells and blasting, given the ledge in the area. Mr. Masse said that he would make sure that if there is blasting, that the neighbors are contacted. The Chairman then closed the public hearing. Steve Leighton then made a motion to approve the application for 2-lot subdivision, conditional upon receipt of the wetlands permit. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Mr. Masse was directed to bring the final plans for signature once the wetlands permit is received and monuments have been set.

The Board then returned to the application of CECIL C. ABELS II for Non-Residential Site Plan Review for a Concert and Outdoor Event Venue to be located at his property at 664 First Crown Point Road (Tax Map 19, Lot 73A). Cecil Abels was present accompanied by Julie Labranche. There were no abutters present. The Chairman advised the audience that the Board had received a message from the town attorney, which would be protected under attorney-client privilege. The Chairman said that he would entertain a motion to go into non-public session. Don Clifford then made a motion to enter non-public session under RSA 91-A:3, II (I) in order to discuss the attorney's recommendations, at the suggestion of the attorney. There was no second to the motion. Discussion continued. Donald Coker recused himself from further discussion and stepped away from the table, based on the Board's decision to move forward. Noting the Board's decision to move forward in public discussion, Julie Labranche asked if the applicant could then receive a copy of the attorney's recommendations. Board members did not agree to share the attorney's correspondence. The Chairman then briefly recapped the status of the application; the plan has been accepted for consideration and the applicant is now working on the access easement agreement. The details in question include providing for two lanes out of the venue in case of emergency, the stage setback, which does not meet requirements, and the Road Agent's requirements for the First Crown Point Road entrance. Terry Hyland noted that these items can be solved. Board members suggested that the next step for Mr. Abels would be to move forward with the application to the Zoning Board of Adjustment for the commercial use. Julie Labranche suggested that Mr. Abels would like assurance from the Planning Board before investing in the application to the Zoning Board. Cecil Abels advised the Board that the 'swapping' of the easements across the Totten land is being worked on now.

Discussion of the driveway easements followed. Mr. Abels said that his main driveway, which runs through a corner of the Totten's property, has never had an easement because they never had a reason to do so, but Mr. Abels and the Tottens are now working to swap the original driveway easement for Mr. Abels' 'new' main driveway. Julie Labranche clarified that they do not intend to actually change any boundaries. It was always the intent to extinguish the original easement they explained; they are now working on swapping the original driveway easement for an easement for the present main driveway. Mr. Abels realized that it was too wet to run the new driveway without crossing the Totten's land, so the new current driveway was built across a corner of the Totten land. The Tottens have agreed to extinguish the original and establish an easement for the new driveway.

In an effort to summarize where things stand, the Chairman summarized the main remaining issues: 1) the First Crown Point Road intersection, 2) the existing driveway easement, 3) the stage, and 4) the original driveway easement. Regarding the road intersection, Mr. Abels said that he met with the Road Agent. Mr. Messenger would like to see the driveway paved to beyond the first culvert along the town road, measured to about an 18 foot by 18 foot area off the edge of First Crown Point Road. The Board indicated that they will need a drawing showing the proposed improvements. Steve Leighton said that he thought that the idea was to make sure that the paved section was wide enough for two cars, so that traffic could turn in off the town road even if cars were exiting the venue. Board members agreed that the section by the town road needs widening and paving to protect the edge of the town road. Board members studied the detail from the wetlands permit application for the driveway, suggesting that the driveway should be widened to 20 feet, running in about 100 feet from First Crown Point Road or as far as possible without impacting wetlands. The Chairman advised that the Board will need an engineered plan for the driveway, as would be required of other applicants. 18 feet of pavement plus shoulders was suggested. Turn-offs further along the driveway should also be shown on the engineered plans. Regarding an easement for the new driveway, Mr. Abels noted again that the Tottens are working on this because they are going for refinancing. As regards the stage, Mr. Abels plans to apply for a variance to the commercial setbacks, as he does not plan to complete a boundary adjustment for the driveways, and the stage area is a natural amphitheater. Ms. Labranche said that they would like a conditional approval from the Planning Board before going to the Zoning Board. Planning Board members said that it is up to the Zoning Board to decide the setback issue if Mr. Abels and the Tottens are not planning on a land swap.

The final issue is the proposed access agreement to allow use of the original driveway easement during events. Mr. Abels has submitted a proposal for a contract between the Tottens, Mr. Abels, and the Town that would allow emergency use the original easement during events for a 5 year period. Don Clifford spoke first, saying that he was not comfortable with a contract instead of a permanent easement. He also noted that he doesn't feel that the town attorney is fully comfortable with the proposal. Board members questioned the 5 year proposal, and noted the other parties involved, including the Board of Selectmen and the town's insurance carrier. Steve Leighton said that the contract would simply delay rather than solve the problem. Scott Young said that the point is to make a 2-lane road, and said that he doesn't like the access road solution, as much as the Board would like to work with the applicant. Don Clifford agreed. Scott Young clarified that the emergency access road contract scares the Board as being inadequate, on behalf of the Town and in case of an emergency. Don Clifford agreed, noting that it was different when the Board thought that Mr. Abels had full emergency access. Board members all agreed that having a second road in was key because it allowed the town to get emergency people into the site on a dedicated access road. Julie Labranche suggested that the contract would do the same. She then asked if it would make a difference if they included a maintenance agreement to keep the emergency access unobstructed. Steve Leighton indicated that the Board's concern is to have a deed recorded, something permanent. He explained that the problem is that the proposed contract has a limited time frame and is only with the Tottens, who could sell their home at any time, voiding the contract. Mr. Abels asked why that wouldn't simply be his problem, and Board members indicated that the town would also be faced with the problem. The Chairman asked why Mr. Abels cannot simply upgrade his 'new' driveway into a 2-lane road, which would be the simplest solution to the problem. Mr. Abels noted the wetlands issues and expense that would be involved in upgrading the new driveway to two full lanes. Board members indicated that a two-lane drive would need to be about 20 feet in width; the driveway now is about 12 feet in width. Board members agreed that it would be expensive but noted that this is a commercial venture. Board members suggested that Mr. Abels explore a contract with the Tottens to retain the original deeded easement until Mr. Abels is able to upgrade to a 2-lane road. Julie Labranche asked for clarification about why 2 lanes are needed, and Scott Young explained that two way access would be needed in case of an emergency. Steve Leighton said that a 20 foot width would be the town requirement for gravel, and referred them to the typical section in the regulations. Further discussion will be continued to the next meeting.

There being no further discussion, the Board returned to the minutes of the previous meeting. Don Clifford then made a motion to accept the minutes of the March meeting as presented. Steve Leighton seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. There being no further business before the Board, a motion was made and seconded to adjourn the meeting. The vote was unanimous in the affirmative and the meeting adjourned at 10:00 PM.