

Minutes

Planning Board Meeting

May 7, 2015

Members of the Planning Board in attendance were Charles Moreno, Chairman, and Donald Clifford, Terry Hyland, Lynn Sweet and Donald Coker and Denise Markow-Speed, Alternate members. The Chairman opened the meeting at 7:30 p.m. The closing date for applications to appear on the agenda for the June 2015 regular meeting is 5 p.m., Tuesday, May 19, 2015. 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. Noting scheduling conflicts, the Chairman then put the audience on notice that the Board would be adjourning at 9:00 PM tonight. The Chairman advised that the Board will be considering new business first this evening.

The first item of new business was the application of Ann D. Trueworthy as Trustee for the NANCY L. FARINELLA 2003 TRUST (Tax Map 6, Lot 1) and ANN D. TRUEWORTHY (Tax Map 6, Lot 2-2) for boundary adjustment between the two properties located on the Province Road. Steve Ferguson of Norway Plains Associates was present representing the applicant. Mr. Ferguson brought plans to the meeting that showed the location of driveways not shown on the original submission. The family plans to increase the area of Lot 2-2, which was subdivided out of Lot 1 in 1990. They will be adding 1.92 acres to the rear of the lot in order to square off the rear boundary. The frontage will not be changing. Lot 2-2 will increase from 5.91 to 7.88 acres; Lot 1 will decrease in area accordingly. Lot 1 is already developed and is over 200 acres in area. Both lots are over 5 acres in area and WSPCC subdivision approval is not required. Mr. Ferguson noted that Lot 1 is in current use assessment, so the area being transferred to Lot 2-2 will need to come out of current use. He noted that the Shoreland Protection Zone is shown on the plan.

Board members then reviewed the plans with the checklist. It was noted that much of the information (topography, wetlands, etc.) are shown on the original subdivision. The only item missing from the plans are the seals. Mr. Ferguson indicated that he only puts his seal on completed plan sets. He will monument the new bounds and indicate the monumentation on the final plan. The Chairman then advised the Board that he was designating Donald Coker to vote in place of Steve Leighton, who is absent this evening. Noting that the checklist is complete, Lynn Sweet then made a motion to accept the plan as complete for consideration. Terry Hyland seconded the motion, there was no further discussion and the vote was unanimous in the affirmative. The Chairman then opened the public hearing on the application. There were no comments. The Chairman then closed the public hearing. Lynn Sweet then made a motion to approve the plans for boundary adjustment as submitted, conditional upon the addition of the surveyor's seal and monumentation. Donald Coker seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Mr. Ferguson was directed to bring the completed plans to the office for signatures along with a check for recording fees.

The second order of new business involved the boundary adjustment of a neighboring property, the application of Hammond Brown as Trustee for ELMCROFT REALTY TRUST (Tax Map 24, Lot 3) and HAMMOND F. BROWN and A. ELIZA EVANS (Tax Map 24, Lot 3-1) for lot line adjustment between their two lots located on the Province Road. Steve Ferguson of Norway Plains Associates presented the application; Hammond Brown was present. Donald Coker removed himself from the Board for this item, and the Chairman designated Denise Markow-Speed to vote in place of Steve Leighton, who was absent. Mr. Ferguson noted that the proposed adjustment would bring Lot 3-1 back to the rough outline of the lot as originally created in 2008, with some additional shoreline from Lot 3-1 added. There was a subsequent boundary adjustment in 2010 which shifted lot lines. Both the 2008 and 2010 plans show detail on topography and wetlands, etc. Both Lot 3 and Lot 3-1 lie on the shore of Bow Lake. Lot 3 is currently under conservation easement in the federal WRP program; the shoreline area of Lot 3-1 and two islands will be going into conservation easement with Bear-Paw Regional Greenways. The idea is to have all of the area under conservation easement in one tax lot to aid with bookkeeping and easement monitoring in the future. Mr. Ferguson explained that the shaded area on Lot 3 is the WRP easement area.

Board members then reviewed the plans with the checklist. It was noted that one note needs to be corrected to show that the adjustment will add area to Lot 3. It was noted again that much of the information (topography, wetlands, etc.) are shown on the original subdivision. The only item missing from the plans are the seals. Mr.

Ferguson earlier indicated that he only puts his seal on completed plan sets. He will monument the new bounds and indicate the monumentation on the final plan. Noting that the checklist is complete, Lynn Sweet then made a motion to accept the plan as complete for consideration. Don Clifford seconded the motion, there was no further discussion and the vote was unanimous in the affirmative. The Chairman then opened the public hearing on the application. There were no comments. The Chairman then closed the public hearing. Lynn Sweet then made a motion to approve the plans for boundary adjustment with one correction, conditional upon the addition of the surveyor's seal and monumentation. Denise Markow-Speed seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Mr. Ferguson was directed to bring the completed plans to the office for signatures along with a check for recording fees.

The first and only item of continuing business before the Board was the application of BRIAN and SANDRA PAYNE for a conservation subdivision development and boundary adjustment on Payne Drive off Roller Coaster Road (Tax Map 7, Lot 8 and Tax Map 37, Lots 11 and 12). Bernard Cote of Géomètres Blue Hills was present accompanied by David Whitcher representing the applicants and by Brian and Sandra Payne. Lissa D'Anjou and Bob McLelland, abutters, were also present. Mr. Whitcher addressed the Board and asked for clarification on the role of alternates. Ms. Sweet noted a 2010 change in the enabling statutes that allows alternate members to freely participate in Board discussions. Mr. Whitcher then addressed the Board in an effort to recap the status of the project, noting that he had not attended the January 2015 meeting when the project was last discussed and a waiver was granted to the requirement for paving of the subdivision road, contingent upon a number of items. Mr. Whitcher suggested that there are three areas of concern: road specifications, changing lot lines, and agreements regarding the existing ROW access. He said that he had thought that the lot lines were settled at the December 2014 meeting, but an additional buffer was requested at the January meeting changing lot lines. He said that there are three things that the applicants need, and then they can move forward with final engineering. Mr. Whitcher said that he wished to begin the discussion with lot lines. Don Clifford, noting that he is new on the Board, asked Board members to explain about the pavement issue, stating that it was his understanding that all subdivision roads were required to be paved. Board members explained the waivers granted at the January meeting, and Denise Markow-Speed elaborated briefly on several technical issues regarding pavement and runoff. Donald Coker explained that any applicant may request a waiver. He suggested that there is cost/benefit to consider here and that the benefit is conservation. The Board can make the decision to grant a waiver if there is good evidence to support the decision, and he advised that every case is unique, so the decision here would not be setting a precedent for other projects. The Chairman advised that the final note is striking a balance. David Whitcher said that they are asking for a waiver on the road surface only, not on other road specifications, and he noted that they are willing to put into the deeds that the road must be surfaced to town specifications before it can come to the Town for acceptance. Terry Hyland noted that the project would be putting a lot of land into conservation. Bernie Cote noted that the conservation development ordinance allows some flexibility because of the conservation setting.

Discussion then returned to Mr. Whitcher's list of concerns. David Whitcher said that some of the conditions voted by the Board are okay, and some are not. The Chairman advised Mr. Whitcher that in order to change the voted conditions of approval for the waiver to the requirement for pavement, the applicants must submit a new waiver request.

Mr. Whitcher then began to address the six voted conditions. The first was a requirement that the open space be put into conservation easement. David Whitcher advised that they have contacted the SE Land Trust/Strafford Rivers Conservancy and although they do not have a formal response, they have been told that the group is not interested in the easement. Mr. Whitcher said that the applicants want to establish a homeowner's association to hold the land and he noted that this is allowed under the ordinance. They have already begun working with the attorney who drafted deeded conservation restrictions for the Cook's conservation development, which did not involve a formal conservation easement. Lynn Sweet noted that Bear-Paw Regional Greenways had also recently told her that they have no funds for conservation easements. Ms. Sweet suggested that the applicants can move forward with the homeowner's association model which would include conservation restrictions drafted in accordance with recent state statutes. There was a brief straw poll of Board members and a general agreement to the revised terms. The Chairman advised that the conservation restriction deeds will be subject to Board and town attorney's approval. Secondly was a "no further subdivision" requirement, and Mr. Whitcher said that the applicants have no objections. Board members noted that perhaps "no further subdivision roads" should also be mentioned, and Mr. Whitcher agreed.

Mr. Whitcher then addressed the acreage question. The Board had voted to require an increase in the amount of buildable area going into conservation as one of the conditions of approval for the waiver to the requirement for pavement. David Whitcher said that they have met the minimum requirements for buildable acreage in the conservation area and are now at 43%. They are not willing to increase the conservation area in the way the Board has asked. Mr. Moreno noted that the configuration of the conservation area is very awkward and that the area around the proposed large lot/existing home is the question. Mr. Whitcher noted that a small amount of conservation area will be gained by adding the buffer area requested by the Board behind proposed Lot 8-5, but not much. He continued to express his unhappiness with the Board's voted conditions of approval. Board members noted that the request for additional conservation acreage was part of the Board's response to the request for the pavement waiver, and advised that granting of the waiver requires some concessions. Mr. Moreno noted that some of the idea was to cut back the large lot and that some of the area around the large lot could be owned by a homeowner's association without affecting the privacy of the existing home. Mr. Whitcher continued to express his disagreement in heated terms.

The Chairman advised that he had another appointment. Noting that the discussion was no longer productive, Lynn Sweet made a motion to adjourn the meeting. Terry Hyland seconded the motion. There was no further discussion and the vote was unanimous in the affirmative. The meeting adjourned at 9:00 PM.