



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD

Thursday, July 15, 2021 – 6:30 p.m. – Virtual via Zoom

Members Present: Bob Dion, Steve Gerrato, John McDevitt, Catie Medeiros, Steve Smith (Selectmen's Rep)

Members Absent: Stu Gerome, David Moore, Frank Catapano (Alternate)

Staff Present: Mark Fougere

Co-Chair Gerrato opened the Planning Board public hearing at 6:31 p.m. Attendance of Planning Board members was taken by roll call: B. Dion – present, J. McDevitt – present, C. Medeiros – present, S. Smith – present, S. Gerrato – present. A quorum was present and the meeting was being recorded.

1. Projects of Regional Impact

There were no projects of regional impact to discuss.

2. Subdivision of Land/Conditional Use Permit: 624 Post Road (R3, 18A)

Owner: Jarib Sanderson Family Trust

Applicant: David Sanderson

The owner and applicant are proposing to subdivide Lot R3, 18A (11 acres) into two single-family residential lots with a shared driveway.

Paige Libbey, Jones & Beach Engineers and representing the owner and applicant, addressed the Board. Members of the Sanderson family were also present as well as Tim Fisher, 15 Spruce Lane (abutter).

The Conditional Use Permit and waiver request were approved at the meeting on Thursday, June 17, 2021. The driveway location and cemetery on the property were open items remaining from the June meeting. They have met with both abutters on site since that meeting and determined that many of the maple trees will remain along the proposed driveway. P. Libbey noted that T. Fisher had staked out the location of the cemetery, which was very close to the actual location. The Sanderson's hired a company to use ground-penetrating radar to locate the cemetery. They were able to locate, with reasonable certainty, the proximity of the cemetery. The lot line of the front lot has been adjusted slightly to avoid the cemetery area and the driveway relocated. The changes have been discussed with the abutters and they felt it was adequate.

Responding to a question from B. Dion, P. Libbey stated that the new location of the cemetery would be added to the recorded plan. The Town tax maps will be updated to show the correct location of the cemetery. Driveway: P. Libbey noted that there is a significant grade change and that portion of the lot is drastically lower than where the house is located. Based on the number of trees that will remain, they did not see headlights as a problem. They reported they have also met with the abutter and he was

DRAFT: SUBJECT TO CHANGE

content; the grade made a difference. T. Fisher, abutter: Stated the driveway was better but was concerned about what it would look like in the fall, winter, and spring with no leaves on the trees.

J. McDevitt stated that the property owner and abutter were trying to work out the driveway issue. He noted it was their property and they were trying to reduce the grade to address the headlight issue. In his opinion, the abutter may 'have to live with it' for six or eight months out of the year; it was their property and they were trying to work with the abutter.

J. McDevitt questioned if the easement on the road had been addressed. M. Fougere stated that State subdivision approval was needed, an easement document would need to be submitted and would be recorded with the subdivision plan, and bounds will need to be set. J. McDevitt also questioned if an easement was needed for access to the cemetery; M. Fougere did not think it was necessary. P. Libbey was unsure if an easement was required; their surveyors would look into it before recording the plan. There will be an easement along the 50 ft. right-of-way of the front lot, which is a shared driveway, to access the backlot. It can be extended for the cemetery.

C. Medeiros asked if the cemetery would be marked in any way. The applicant will put something around the cemetery so it is not disturbed. The dimensions of the graves were discussed. P. Libbey explained that at the time, graves were smaller. They have increased the easement area for the cemetery (10 ft. wide).

S. Gerrato stated he knows the area well. There is good soil on the property; there should not be any problem with the septic. There could be a problem locating water. He did not have any problems with the plan.

J. McDevitt requested that the abutter and property owner try to work out the buffer on the driveway.

MOTION: J. McDevitt moved to approve the Subdivision of Land at 624 Post Road (Map R3, 18A), in accordance with the plan presented by Jones & Beach Engineering, Revised 07.08.2021, Project No. 20529, with the following conditions: NHDES approval, setting pins prior to plan recording, NHDOT driveway permit, execution of easement documents for the driveway, permanent marking for the cemetery. Second – C. Medeiros; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros - yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

3. Subdivision of Land, Conditional Use Permit: 177 Winnicut Road (R10, 12A-2)
Owner: Brian and Maria Beck
Applicant: 177 Winnicut Road LLC
The owner and applicant are proposing a seven-lot subdivision and a public road.

Christopher Berry, Berry Surveying and Engineering and representing the owner and applicant, addressed the Board. Also present was Troy Thibodeau, applicant. S. Gerrato, addressing C. Berry, stated that every meeting he asks about the two granite pins on the property. C. Berry responded that they were set from a prior survey of the property by Ambit Engineering. It was marked where the granite curvature meets the tangency for the road outlet.

S. Gerrato asked about the National Historic Preservation Act. C. Berry stated he filed with DHR, a division of the National Historical Resources; a request for more information was received in early 2020.

DRAFT: SUBJECT TO CHANGE

Monadnock Archeological Consultants were hired to do an Archeological Phase One. That has been completed and submitted to DHR. The information is confidential until DHR reviews and approves it, or requests additional information. A copy will be submitted to the Town. S. Gerrato stated it was called a 'sensitive situation'. C. Berry responded they call most overlooks on many rivers 'sensitive situations'. It is required for State and federal permitting. Before they can be issued a wetland permit and Army Corps permit to cross the wetlands, an affirmative letter from DHR approving the site would be required. Monadnock Archeological Consultants reviewed the entire site and did not find any areas of sensitivity; the site had been manipulated over the years through farming and other activities.

At the June meeting the Board approved waivers, continued one waiver to the July meeting, and granted the Conditional Use Permit. The waiver that was continued to July: the Board wanted them to go to a 2:1 side slope through the buffer and wetland areas, tighten it up and extend the guardrail out. A 3:1 slope was originally proposed to reduce the amount of guardrail needed. Redesigning reduced the impact. Altus noted they took no exception to the actual design other than a retaining wall would further reduce the impacts. At the June meeting the Board felt the 2:1 was a solution: the retaining wall would add expense to the applicant and future maintenance concerns to the Town. The waiver was rewritten specific to that request.

The Board agreed the modification of the drainage system was appropriate; it was submitted to Altus Engineering for their review. They agreed but requested that the Board review the planting plan. M. Fougere noted that species needed to be clearer in some locations. In addition, wetland species need to be further detailed.

The comments from Altus Engineering were reviewed. Item 6 - 25 ft. stormwater easement on the drainage course: C. Berry thought it was discussed at the June meeting and not required because it was so small. M. Fougere stated that it was not necessary; it was a small thread and did not carry a lot of water. There is a good-sized easement area around the crossing planned. Item 9 – Berm for detention pond 104 appears to extend beyond the easement area: C. Berry stated the easement was stopped short of where the proposed grading berm comes out. When the site is built out, the berm will no longer be there. Altus Engineering stated the easement line needed to be extended 10 ft.; the Board agreed. Item 10 – Bus shelter: The bus shelter has been removed from the plan. Item 11 – Proposed plantings are adequate to screen stormwater management devices: The Board agreed the plantings were adequate at the June meeting. B. Dion noted that the Conservation Commission Chairman felt the plantings were an improvement at the June meeting. The Board approved the plantings as submitted. Item 13 – Letter of Credit: The note will be modified to indicate financial security shall be for all site development costs. Note 14 – Phase I site construction activities & DES AOT Permit: They understand they are very close to triggering the AOT permit; if the permit is triggered during construction, the applicant will stop work and apply for the permit. At this point, it is not required. M. Fougere stated it was important to note that construction has to be stopped to obtain an AOT permit, it will be a significant delay. Altus Engineering will be inspecting. Note 28 – Erosion and Sediment Controls: C. Berry stated all their plans and subdivisions show stabilization and sediment/erosion controls on all lots. Altus Engineering felt it should be done on a separate plan. A second erosion control sheet will be added. There will be a sheet for sediment control for the roadway and for the sediment/erosion control on the lots will be a separate sheet.

Waiver: C. Berry explained the guardrails were not a safety issue; they extended the guardrails. Originally, they had flattened the slope to shorten the guardrail so it would be less for the Town to maintain in the future. At the June meeting, the Board asked them to pull the side slopes in and extend the guardrail out—a steep slope becomes less recoverable and an additional guardrail is needed.

DRAFT: SUBJECT TO CHANGE

S. Gerrato questioned the test pits as a result of cutting the hill down and stated the depth of the high-water table needed to be changed. C. Berry responded they were not cutting the hill down more than 1 foot at the highest point. S. Gerrato stated it was enough to make a lot of the test pits void. C. Berry noted they had much better results on that part of the hill than at the front of the site and referred to the Plan Profile sheet.

MOTION: J. McDevitt moved to grant the waiver from Subdivision Regulations Section IV, Subsection 4.5.1, Item F (requiring guardrails), to the plan presented by Berry Surveying & Engineering, dated 02.24.2021, Revision #3 dated 06.29.21, File No. DB2018-052. Second – S. Smith; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros - yes, S. Smith – yes, S. Gerrato – yes. All in favor.
MOTION CARRIED

C. Berry and M. Fougere discussed as a condition of approval increasing the detail on the plantings and planting schedule as well as the potential modifications due to the review by Altus Engineering.

J. McDevitt questioned M. Fougere about the letter from Chip Hussey, 207 Winnicut Road (copy on file). M. Fougere noted there are other State permits that are required. If nothing is found and the State disagrees and it alters the plan, the applicant will have to come back to the Board. They will not get their permits from the State. C. Berry felt the National Historic Resources review would be complete in two weeks.

S. Gerrato opened the meeting to public comments. Debra Beck, 1039 Portsmouth Avenue: Asked for more detail regarding the National Historic Resources report. C. Berry explained the reasoning for the additional review was because anytime there is an overlook slope over a pretty major waterway, the division of Historical Resources is interested. Colonial people flocked to those sites first based on food and availability of water. An archeological consultant was hired to review the site; it was determined there were no areas of concern on site. The consultant noted that much of the site had been manipulated in the past. D. Beck stated it is a very sensitive site that was meant to be kept the way it is and farmed.

S. Gerrato was concerned about the dirt road by the stone wall and stated it was a Class VI road. There were people using the dirt road. Was it considered a prescriptive easement? C. Berry stated they were not going to call it a prescriptive easement; he was not going to continue the conversation about it. It was not a Class VI road; there is no deeded easement. D. Beck added that it was always accessed when her father owned it; Chip Hussey, abutter, was allowed to access it. D. Beck continued that the Planning Board, during her time, never landlocked land. The Hussey's have land behind this property and there should be a paper road in the subdivision. She told the Planning Board "that's your job; that's what the Planning Board is supposed to do; it was for the future". The Planning Board needed to not landlock other people's property. D. Beck also stated that the rain gardens and other things involving engineering needed to be maintained. Charlotte Hussey, 207 Winnicut, also addressed the road, stating it has been used for years by hunters, people camping out back, and by people riding dirt bikes out there. Brian Beck has given people permission to use that road for years. People use that road to access our back lot. They have had permission, and now the applicant was cutting it off.

DRAFT: SUBJECT TO CHANGE

S. Gerrato closed the public hearing and returned to the Board. S. Gerrato noted that the Hussey's property would not be landlocked but it would be a hardship to access the back; the septic system would have to be moved. S. Gerrato asked the applicant and engineer if they wanted to do anything about it: C. Berry responded "no, sir".

MOTION: J. McDevitt moved to approve the Subdivision of Land at 177 Winnicut Road, Map R10, Lot 12A-2, in accordance with the plan presented by Berry Surveying & Engineering, dated 02.24.2021, Revision #3 dated 06.29.21, File No. DB2018-052. Conditions of Approval: receipt of all State permits, final letter from Altus Engineering regarding the plan changes including landscaping issues, easement documents submitted, finalizing bonding. Second – B. Dion; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros - yes, S. Smith – yes, S. Gerrato – no. Four in favor, one against (S. Gerrato).
MOTION CARRIED

4. Subdivision of Land and Site Plan Review: 410 Portsmouth Avenue (U4, 17)
Owner/Applicant: 410 Portsmouth Avenue, LLC (Jason Lajeunesse)
The owner/applicant is proposing a multi-family site plan with ten 2-bedroom residential condominium units.

Paige Libbey, Jones & Beach Engineers and representing the owner and applicant, addressed the Board. Also present was Jason Lajeunesse, owner/applicant. P. Libbey updated the Board they have been able to wrap up loose ends since their last appearance before the Board, which was virtually in May. They have received their 'Ability to Serve' letter from the Portsmouth Water Department; they are waiting for DES permits and State subdivision and septic approvals. They are anticipating receiving DOT approval soon. Comments were issued by DOT in May; P. Libbey stated they responded to those comments quickly.

Comments from Altus Engineering were reviewed (copy on file). P. Libbey stated they were fine with many of the comments being a Condition of Approval. Landscape issues were discussed. Altus Engineering recommended the Board comment on the plantings in the proposed rain gardens. They are proposing plantings, water tolerant shrubs and salt tolerant shrubs with mulching. They tried to avoid having the rain gardens too dense with plantings; the owners will be maintaining the plantings. P. Libbey stated the rain gardens do not need plants to function.

Altus Engineering also wanted the Board to comment on the buffer plantings along the rear property line. A fence and shrubs are planned along the property line. They are providing as much plantings as possible in that area. The property line, in its current location, cannot be fully buffered; the ZBA made it a condition that the buildings must be as far away from the front two properties as possible. It was noted in a previous meeting that the grade behind the units was too steep. They are proposing to remove the existing plantings (mature invasive species) and replace with the fencing and shrubs. It was their opinion that full buffering was not feasible but planned to provide as much buffering as possible.

S. Gerrato voiced concern about rain gardens not working. He has been trying to change rain gardens to dry wells. S. Gerrato stated dry wells were much neater and required less maintenance. P. Libbey stated that at the entrance to each rain garden they are proposing a proprietary structure where the water enters; that will totally slow down the velocity of the water.

S. Gerrato opened the hearing to public comments. There being none, S. Gerrato closed the public hearing and returned to the Board for further discussion. J. McDevitt questioned Item 13, Stormwater Management, on the report from Altus Engineering. P. Libbey stated that Colby Gamester, attorney

DRAFT: SUBJECT TO CHANGE

working with the applicant, drafted the condo documents that were submitted; it was meant to be included. She noted they will be sending a response letter to Altus Engineering regarding their comments and will include the Stormwater Management documents.

C. Medeiros asked P. Libbey to discuss the invasive species that will be removed. P. Libbey responded the trees along the property line are all overgrown. Altus Engineering had requested the grade behind the back building be softened. Some of the trees in that area must be removed in order to do that. There are invasive vines and trees in that area. M. Fougere noted that the rear of the site abuts the industrial complex where Arens Stoneworks is located.

S. Smith commented that he never would have set the third building back as far as it is. He felt it was an overuse of the back part of the property. S. Smith continued that they were trying to do the best they could for the use of the property and there was no way they were going to get the coverage from the back of the lot. Concrete sidewalks will be installed. M. Fougere stated the Selectmen will need to sign off on the sidewalks once approved by the State. J. McDevitt noted it was not the purview of the ZBA to move the building location.

MOTION: B. Dion move to approve the Subdivision of Land at 410 Portsmouth Avenue, Map U4, Lot 17, in accordance with the plan presented by Jones & Beach Engineering, dated 02.17.2021, Revision #4 dated 07.06.21, Project No. 20642, with the following conditions: all State permits must be obtained, bonding estimates received, and the final letter from Altus Engineering regarding the outstanding issues. Second – C. Medeiros; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros - yes, S. Smith – yes, S. Gerrato – no. Four in favor, one against (S. Gerrato). MOTION CARRIED

5. Subdivision of Land – Amended: 339 Bayside Road (R16, 2A)
Owner/Applicant: Michael Green, Green & Company Building & Development
The owner/applicant is proposing to amend the approved subdivision plan to relocate the driveway access off Bayside Road.

Paige Libbey, Jones & Beach Engineers and representing the owner and applicant, addressed the Board. Also present were Michael Green and Jenna Green, Green & Company. Green & Company was before the Board last year for a three-lot subdivision (Map R16, 2) with a shared driveway. Map R16, 2A was previously subdivided and is now owned by Green & Company. At the time of the subdivision, Map R16, 2A was part of the subdivision and the driveway came off the shared driveway for Map R16, 2. They were proposing to amend the subdivision plan to make Map R16, 2A its own lot with the driveway off Bayside Road. Green & Company owns the land but not the land where the three-lot subdivision is located. They would like to start building on Map R16, 2A.

Septic and drainage will stay the same. The only change will be the location of the house. Sight distance is very good at the Bayside Road location; the driveway will be below the top of the crest at the hill. M. Green added that the driveway on the original lot was on Bayside Road.

M. Fougere stated this was an unusual situation and he has contacted the Planning Board's attorney. Lot 2A was existing prior to the three-lot subdivision. The attorney stated the best and cleanest way was to submit a formal application showing the drive coming off Bayside Road as a separate access because there is a recorded plan on file. The Bayside Road lot was created before the three-lot subdivision.

DRAFT: SUBJECT TO CHANGE

S. Gerrato opened the hearing to public comments. There being no comments, S. Gerrato closed the public hearing and returned to the Board for further discussion. P. Libbey provided clarification regarding the three lots (Map R16, 2) and the lot on Bayside Road. M. Fougere gave a brief history of the subdivision. There are no changes to the size of the lots.

MOTION: S. Smith moved to accept the application for the Amended Subdivision of Land, 339 Bayside Road (R16, 2A), as complete. Second – B. Dion; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

D. Beck gave a brief background of the lots. She was not planning to sell Map R16, 2 at this time.

MOTION: J. McDevitt moved to approve the Amended Subdivision of Land, 339 Bayside Road, Map R16, Lot 2A, in accordance with the plan presented by Jones & Beach Engineering, dated 05.16.2019, Revision #12 dated 06.09.21, Project No. 18097. Second – S. Smith; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

6. Approval of Minutes

MOTION: S. Smith moved to table approval of the minutes from Thursday, June 17, 2021, to the next meeting. Second – B. Dion; roll call vote: B. Dion – yes, J. McDevitt – abstain, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. Four in favor, one abstained (J. McDevitt). MOTION CARRIED

7. Approval of Invoices

MOTION: B. Dion moved to approve the invoice from Fougere Planning & Development: Planning Board Town Budget--\$1,405.71; Planning Board Escrow Account--\$335. Second – S. Smith; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

MOTION: J. McDevitt moved to approve the invoice from Altus Engineering from the Planning Board Escrow Account--\$2,962.50 (177 Winnicut Road - \$1,950; 410 Portsmouth Avenue - \$1,012.50). Second – C. Medeiros; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

MOTION: B. Dion moved to approve the invoice from Donahue, Tucker & Ciandella from the Planning Board Town Budget: \$166.50. Second – S. Smith; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros – yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

8. Other Business

Catholic Charities (New Generations): M. Fougere explained that there is a small retail shop on the property, which is an extension of the thrift shop. They would like to sell used furniture for four hours on Friday's and Saturday's. There is no parking allowed on both sides of the road. There is a parking lot next to the house and stairs up to the retail shop. The consensus of the Board was to approve the retail shop selling used furniture as long as parking did not become a problem. They will have to come before the Board if it is a problem.

DRAFT: SUBJECT TO CHANGE

Montessori School: The Montessori School was before the Board several months ago. M. Fougere updated the Board that a letter was received from the Traffic Engineer. A traffic analysis was done and indicated that a dual turning lane onto Rt. 33 will work. Their application must be signed by the Selectmen because it is a Town road. M. Fougere suggested a presentation be made to the Planning Board before going to the Selectmen. The Board should be comfortable with the traffic issue and the Police Chief should be involved. If the Board was comfortable, they could then go to the Selectmen. If the Board did not approve of the traffic issue, the Montessori School should not move forward with a Site Plan. It was noted that there was also traffic from Dance Innovations even though it was afternoons and evenings.

9. Topics for Work Session: Thursday, August 03, 2021

The Capital Improvement Plan will be reviewed and discussed.

10. Adjournment

MOTION: J. McDevitt moved to adjourn at 8:00 p.m. Second – S. Smith; roll call vote: B. Dion – yes, J. McDevitt – yes, C. Medeiros - yes, S. Smith – yes, S. Gerrato – yes. All in favor. MOTION CARRIED

NEXT MEETING

Thursday, August 05, 2021 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant