



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD MEETING

Thursday, December 07, 2023 – 6:30 p.m. – Town Hall Conference Room

Members Present: Phil Dion, John McDevitt, David Moore, Stephan Toth, Bob Dion, Steve Smith (Board of Selectmen's Rep), Frank Catapano (Alternate)

Members Absent: Steve Gerrato, Catie Medeiros (Alternate), Richard Winsor (Alternate), Stu Gerome (Alternate)

Staff Absent: Mark Fougere

Also Present: Chip Hussey, Conservation Commission Chairman

B. Dion opened the Planning Board meeting at 6:30 p.m. He announced a quorum was present and the meeting was being recorded. F. Catapano was voting at this meeting.

I. PUBLIC HEARING

1. Amend Zoning Ordinance Article III - Establishment of Districts, Section 3.7 - Supplemental Use Provisions – Subsection - 3.7.11 Accessory Dwelling Unit, Item 3.7.11.2 as follows: The living area of the accessory dwelling unit shall not exceed a maximum assessed of ~~800~~ **1,200** square feet of conditioned space or **40% of the existing principal conditioned space, whichever is greater.** The accessory dwelling unit shall not contain more than two bedrooms. And amend Item 3.7.11.3 ~~An interior door shall be provided between the principle dwelling unit and the assessor dwelling unit.~~ **The Accessory Dwelling Unit may be a part of the principal dwelling unit or as a detached structure.**

After discussion with the Board, the following was amended: **40% of the existing principle conditioned space, whichever is greater.** ~~lesser.~~

B. Dion opened the hearing to public comments. There being none, he closed the public hearing and returned to the Board.

MOTION: S. Toth moved to forward the amended Zoning Ordinance Article III - Establishment of Districts, Section 3.7 - Supplemental Use Provisions – Subsection - 3.7.11 Accessory Dwelling Unit, Item 3.7.11.2, to ballot for the 2024 Town Meeting, as amended. Second – J. McDevitt; all in favor. **MOTION CARRIED**

2. Amend Subdivision Regulations, Section IV- General Principles and Design and Construction Standards for Subdivisions, Subsection 4.4.7 - Performance and Maintenance Security as follows:

- A. Prior to the recording of a plat by the Planning Board, the applicant or owner shall obtain from their engineer an estimate of the cost of construction of all improvements, but not limited to, roads, site stabilization and erosion control, which shall be required by the Board as a condition of final

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approval up to the standards set forth in the Subdivision Regulations. The applicants engineer shall calculate the performance guaranty estimate which will then be reviewed by the Town's Consulting Engineer/Inspector. Said costs shall include a ~~15 %~~10% contingency for cost escalation. excluding costs increases for engineering, administration, or other non-construction reasons.

- B. A road construction security and inspection agreement must be reviewed by the Planning Board Engineer and approved by the Board of Selectmen ~~before the mylar is signed~~. If more than six months should lapse between the time the applicant's engineer develops the bonding estimate and the time of mylar recording, the applicant shall update said estimate to reflect current market conditions. Prior to construction, proper funds shall be provided to the Town to pay for all required inspections.
- C. The amount of the performance surety must be paid to the Town of Greenland in the form of a bank check, bond, cash, or Letter of Credit prior to the plan being recorded.
- D. ~~Road and utility construction may begin without the posting of a performance guaranty, however, pursuant to the authority under RSA 674:36, II(j), such construction must be preceded by having provided that all required erosion control provisions have been properly installed and ongoing inspections occur during construction to insure compliance with all plan approvals.~~
- E. Posting of Performance Guaranty:** Prior to the sale of any unit/parcel or an application for a building permit for structures for human occupation, a performance guaranty shall be in place as follows: ~~The construction of a new proposed road may proceed under one of two scenarios:~~
- ~~1. After posting an adequate performance surety to cover the cost of site stabilization and erosion control, road construction may proceed but no building permits shall be issued. Building permits will be issued once all remaining improvements have been secured by a performance guaranty. In no case shall a Certificate of Occupancy be issued until such time the binder course of pavement has been satisfactorily installed.~~
 21. A The complete Pperformance surety Guaranty, the amount of which is based upon the cost analysis referenced in Part A, shall be provided. In the event that road, utility, or other construction occurred prior to providing the performance guaranty, then the cost analysis referenced in Part A must be updated with an itemized list to reflect the work done to date and the work left to be done. covering all remaining required improvements shall be provided. The applicant shall submit an itemized list of all remaining road or other improvements which shall be secured by the performance surety. is posted and in full effect prior to any construction of any improvements. Building permits shall not be issued until an acceptable performance guaranty has been submitted; a ~~A~~ Certificate of Occupancy shall not be issued until such time the binder course of pavement has been satisfactorily installed. Failure to maintain proper completion assurances shall result in denial of a Certificate of Occupancy and the revocation of all outstanding building permits outstanding for the subdivision.

B. Dion opened the hearing to public comments. There being none, he closed the public hearing and returned to the Board.

MOTION: D. Moore moved to adopt the amended Subdivision Regulations, Section IV - General Principles and Design and Construction Standards for Subdivisions, Subsection 4.4.7 - Performance and Maintenance Security. Second – F. Catapano; all in favor. MOTION CARRIED

Changes have been reviewed by the Planning Board Attorney.

II. WORK SESSION

1. Zoning Ordinance Amendments

Wetlands Ordinance: Chip Hussey, Conservation Commission Chairman, reviewed the Conservation Commission's request to amend Article XVIII - Wetlands Protection Ordinance: Section 18.8 - Wetland Buffers, Subsection 18.8.2 – Required Wetland Buffers, "Limited Cut" buffers found under the chart, Subsection 18.8.3 – Making of Buffer Zones Known, and Section 18.10 - Special Exceptions Granted by the Zoning Board of Adjustment for Residential Uses. A copy of the proposed Ordinance changes, done by M. Fougere, was given to the Board.

M. Fougere explained that the change to Subsection 18.8.2 (Required Wetland Buffers), was under the chart. The Conservation Commission recommended using 'Guide to New Hampshire Timber Harvesting Laws', July 2023, as a guideline to buffer disturbance. M. Fougere did not have a problem with the guide but recommended removing any reference to statutes. M. Fougere has reviewed the guide; he felt it had relevance and would be useful if there were questions about cutting in the buffer.

Subsection 18.8.3 (Making Buffers Known): M. Fougere explained the recommended change by the Conservation Commission has been done as a policy, but it would now be in writing. They are requesting that boundaries be marked with a low-profile survey stake or 2-inch round mounted wetland placard along the buffer as a requirement.

M. Fougere stated that the biggest change would be to Section 18.10 – Special Exceptions Granted by the Zoning Board of Adjustment. He explained that the Conservation Commission would like to see any impact to the buffer, wetlands, or combination of both over 3,000 square feet, residential and commercial, go to the ZBA for a Special Exception. C. Hussey explained it would be minimum impact and anything under 3,000 square feet would be eliminated. M. Fougere stated that currently everything goes to the Planning Board for a Conditional Use Permit. The only time it would go to the ZBA now is if it is an undersized lot of record and building goes into the buffer. M. Fougere stated there are actually two items involved: did the Board want to apply it to more than residential and a grandfathered case; did the Board want to exempt impacts less than 3,000 square feet. M. Fougere explained that currently residents had to go to the ZBA for any impact, adding that if it applied to any grandfathered lots under 3,000 square feet, it would relax the requirements. F. Catapano noted it would be added to Subsection 18.10.1 just for residential uses and should state: for any impacts over 3,000 square feet the following applies. S. Smith stated a new subsection was needed.

M. Fougere explained that a public hearing notice would have to be posted and the public hearing held no later than January 12, 2024. The public hearing will need to be held on Thursday, January 04, 2023.

F. Catapano asked the Board if they wanted to send commercial uses to the ZBA. M. Fougere clarified: should it be kept as residential or require commercial and industrial to go to the ZBA. F. Catapano commented that the straw poll of the Board was to keep it as residential. M. Fougere will have a revised Ordinance for the meeting on Thursday, December 21st.

MOTION: S. Smith moved to table further discussion to the meeting on Thursday, December 21, 2023. Second – F. Catapano; all in favor. **MOTION CARRIER**

Subdivision Regulations: C. Hussey stated that the Conservation Commission would like the Board to consider requiring 6-inch cement monuments at all street intersections as well as 18-inch frost pins in

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monuments used at property corners. During monitoring of conservation property, they found many property markers were missing. M. Fougere will discuss this with Altus Engineering.

Housekeeping Clause: S. Toth stated that the New Hampshire Municipal Association (NHMA) has recommended that cities and towns have a clause in their Zoning Ordinance for 'housekeeping'. This will give the Planning Board the authority to make minor modifications to the Zoning Ordinance provided no substantive change occurs. M. Fougere noted that changes can be made without this clause; however, it would be in writing. The Housekeeping Clause would be added to Article I: Authority and Purpose, as Section 1.7 – Housekeeping Clause.

MOTION: S. Smith moved to forward the Housekeeping Clause to public hearing as proposed, on Thursday, January 04, 2024. Second – J. McDevitt; all in favor. MOTION CARRIED

2. Electric Vehicle Charging Infrastructure

S. Toth briefly reviewed the revisions to the Electric Vehicle Charging Infrastructure, which will be included in the Site Plan Review Regulations. Slightly over 50% of the document has been reduced in scope. Further discussion was continued to the meeting on Thursday, January 04, 2024.

3. Approval of Minutes

MOTION: D. Moore moved to approve the minutes of Thursday, November 16, 2023. Second – S. Smith; all in favor. MOTION CARRIED

4. Consent Agenda

- Town Budget – Fougere Planning & Development: **\$1,045.70**
- Town Budget – Donahue, Tucker & Ciandella: **\$1,081.03**
- Escrow – Altus Engineering: **\$5,603**
 - Stillwater Drive - \$945
 - 125 Dearborn Road - \$3,858
 - Summerwind Place - \$800
- Escrow – Fougere Planning & Development: **\$116**
 - Dearborn Woods

MOTION: S. Toth moved to approve the Consent Agenda as presented. Second – J. McDevitt; all in favor. MOTION CARRIED

5. Topics for the Public Hearing

- **Continued**

Subdivision of Land, Conditional Use Permit

125 Dearborn Road (Map R12, 12: Residential Zone)

Owner/Applicant: Jay Lajeunesse - Dearborn Woods, LLC

The owner/applicant proposes to subdivide approximately 22.12 acres into a 13-lot residential subdivision. This will be a conventional subdivision with 11 single family homes and two duplex lots. The proposed road will be off Dearborn Road.

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M. Fougere noted that a traffic engineer has been engaged for 125 Dearborn Road. He was unsure if a report would be available for the meeting on December 21st. S. Toth questioned is a developer could be required to pay to have an anti-glare window installed in the business across from Dearborn Road that would be affected by lights from oncoming traffic. M. Fougere stated that he has never heard of that type of requirement. Developers have offered to add landscaping as a buffer. It can be mentioned at the meeting on December 21st.

- **New**

- Conditional Use Permit*

- 24 Winnicut Road (Map R10, 24: Commercial)

- Applicant:** Christopher Rice, TF Moran

- Owner:** Brad Peterson, REP Enterprises

- The owner and applicant are proposing to construct a driveway, with an apron on Winnicut Road, to provide access to the existing trailer storage area. The proposed driveway will be 24 feet wide and approximately 290 feet in length. There are impacts to the on-site wetland and buffers; retaining walls are proposed to limit wetland and buffer impacts.

M. Fougere noted that DOT required the owner to move the driveway. An as-built has been done and approximately 98% was on the approved plan: they did not go into the buffers. The property is zoned commercial.

Proposed Zoning Ordinances by the Conservation Commission will be discussed.

6. Other Business

MS-4: The EPA has contacted TA Sanderson regarding the MS-4 and that the Town is non-compliant. M. Fougere stated that the EPA is requiring that the Town shall have a post-construction stormwater management ordinance by June 30, 2024. M. Fougere and S. Smith explained that the MS-4 dealt with drainage and stormwater runoff for the Town (and country) and is an EPA requirement. M. Fougere explained that the EPA is recommending the Town adopt a model ordinance. In reviewing the recommended ordinance, M. Fougere stated that it is very similar to the Town's existing ordinance. S. Toth noted that any differences between the recommended ordinance and the Town's ordinance are minor. M. Fougere commented that when the Town's ordinance was adopted in 2017, it was 'state of the art', adding that the changes could not be that significant to cause the Town to be in violation. S. Toth suggested taking portions of the recommended ordinance and adding it to the Town's. M. Fougere will talk to TA Sanderson to make sure the ordinance given to the EPA was the correct one.

November 16th Public Hearing: F. Catapano stated that the Board needed to maintain a decorum. He noted that one member of the Board appeared very emotional and angry, and snapped at the applicant's engineer. Meaning no disrespect to the Board member, F. Catapano continued that he felt it was highly inappropriate. All Board members are concerned about certain aspects of a plan. There had been a discussion between several members about pervious pavement: it is not a position of the Board and not in the regulations. F. Catapano noted that the Board member felt strongly about things; the place to discuss those are with the Board and not the applicant, and not to treat the applicant with disrespect. The engineer has been in this business for a long time and is an excellent engineer and a wonderful person. The developer seems like a wonderful guy. F. Catapano continued: no matter what, a Town resident, applicant, or a person working for an applicant should always be treated with respect by the Board. F. Catapano added that it was his feeling, and he was not trying to embarrass the Board member. He understood why the Board member got emotional, but this is not an emotional Board. The Board's job is to make sure the applicant is keeping within the regulations and ordinance, and that the

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Board is helping the applicant through the process while protecting the Town. The applicant cannot be made to do things that are not in the regulations or demand things from them—that was not the Board's place.

The Board member in question, thanked F. Catapano for bringing this up. He recently had a conversation with B. Dion. The Board member was unaware that his tone of voice was rude; that was not his intention. He felt terrible there were individuals who believed he was rude. The Board member apologized to B. Dion and mentioned it to TA Sanderson. This is not the type of person he wants to be or the type of person he wants to be known as. He has apologized to the engineer and was in agreement that they definitely wanted to keep a level of decorum on the Board.

F. Catapano stated that it was good they talked these things out and was not offended by anything that was said to him. He wanted to make sure that when someone was in front of the Board they were treated with respect. Board members have different levels of experience and have all done different jobs here. Everyone brings their specialty and expertise to the Board. F. Catapano offered a bit of advice: really get to know things; he was very careful about his comments when he was first on the Board—it is different from what he does every day. Being on the Planning Board is different than being in business or on the opposite side.

The Board member noted that, again, it was not his intention and felt absolutely terrible it was perceived that way. He thanked F. Catapano for his comments. J. McDevitt added that rather than saying 'I want you to do this', it should be done in a different way: 'what do think about doing it this way'. J. McDevitt added that he should look at how he is phrasing the question but not be demanding. The Board member responded that he did not remember the exact specifics or wording. It was not his intention to be that way. F. Catapano added that the Board's job was to be helpful and make sure they stay within the boundary.

M. Fougere commented that when there are 10 or 15 people in the audience and flooding backyards is mentioned, it gets emotional. People are used to being adjacent to woods and it is a dramatic change. They get frustrated and angry, and that could impact all the Board members. It is challenging. F. Catapano stated he tries to keep his emotions out of what is done at the Board. F. Catapano agreed with M. Fougere. The Board's job was to listen to residents and make sure they know their concerns were heard.

Letter from Janet Stevens: B. Dion and S. Smith received a letter from Janet Stevens, Executive Councilor. The Town's request for the corridor study has been moved from Number 28 to Number 10. S. Smith stated that he looked at the project list, and the corridor study is short money. F. Catapano gave J. Stevens credit, stating she has done some great work.

7. Adjournment

MOTION: S. Smith moved to adjourn at 7:35 p.m. Second – J. McDevitt; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, December 21, 2023 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant