



PLANNING BOARD
Town of Greenland • Greenland, NH 03840
11 Town Square • PO Box 100
Phone: 603.380.7372 • Fax: 603.430.3761
Website: greenland-nh.com

MINUTES OF THE PLANNING BOARD

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

Members Present: Bob Dion, Phil Dion, John McDevitt, David Moore, Stephan Toth, Steve Smith (Selectmen's Rep), Stu Gerome (Alternate)

Members Absent: Steve Gerrato, Catie Medeiros (Alternate), Frank Catapano (Alternate), Richard Winsor (Alternate)

Staff Present: Mark Fougere

B. Dion opened the Planning Board public hearing at 6:30 pm. He announced a quorum was present and the meeting was being recorded.

MOTION: S. Smith moved to appoint S. Gerome as a voting member for this meeting. Second – J. McDevitt; all in favor. MOTION CARRIED

1. Projects of Regional Impact

There were no projects of regional impact.

2. 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.

Paige Libbey, Jones and Beach Engineers, addressed the Board. Present was Jay Lajeunesse, River Birch Builders - Dearborn Woods. P. Libbey provided the Board with copies of the traffic memo prepared by GTI; it has been emailed to Altus Engineering and the Police Chief. P. Libbey felt it was a good site walk a few weeks ago. The plans were reviewed at the November meeting and a cover letter was submitted outlining the changes. Shifting the road out of the wetland buffer was the biggest change that was made. A Conditional Use Permit for wetland buffer impacts will no longer be needed.

As part of the changes, they evaluated the location of the proposed road on Dearborn Road to see if it could be shifted for sight distance. They determined the proposed location was the best for sight distance from a traffic standpoint. P. Libbey noted that in the traffic report there was a comparison of the roadway off Dearborn Road vs. Stratham Lane. Using the plan from May 2023, P. Libbey pointed out that the road off Stratham Lane creates five frontage lots on Dearborn Road. There would be more curb cuts on Dearborn Road if the road was off Stratham Lane, resulting in three or four driveways on

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Dearborn Road. Having the road off Dearborn Road allows them to consolidate the traffic in one location.

D. Moore: Questioned if shifting the road to the right and moving the lots to the left would allow all the lots to be on the road. P. Libbey responded that it could be done. There would be a couple of lots that would have frontage on two different roads and would not meet the Town's intersection standards. M. Fougere noted there would only be two lots on Stratham Lane. The Board would like Chief Tucker's opinion on the traffic report; a copy of the old plan is included in that report.

B. Dion, referring to the old plan, commented that where the road is off Dearborn Road is the only spot where there are uninhibited views in both directions to oncoming traffic. P. Libbey responded that technically it still meets sight distance if moved down the hill. There is more sight distance at the location noted on the plan. It should meet or exceed the standards.

P. Libbey noted there were other small changes: the pond was reshaped slightly, and infiltration was added. D. Moore stated that the Board had discussed moving the detention pond in the front further back. P. Libbey stated it was during the site walk and they have not looked at that yet; they will try to shift it away from the road. M. Fougere clarified that the idea was to move the pond, which is fairly large, down the slope; it would have less visual impact. J. Lajeunesse questioned if there were stormwater management plans for the lots so the water does not flow towards the roads. P. Libbey stated that stormwater management was added to each lot on the downhill side of the road and will be detailed once the location of the house and driveway were determined.

M. Fougere stated he had spoken to Eric Weinrieb, Altus Engineering. He has not reviewed the plan in detail but will have a review for January. It was noted that the 65-day clock expired on January 20, 2024. The next Planning Board Public Hearing was on January 18, 2024.

S. Toth that the three trees at the bottom on Dearborn Road were discussed during the site walk: were they on the updated plans to be removed or would they remain? Cutting the trees down would improve the sight distance. P. Libbey noted there were many conversations happening at the site walk. The plan was submitted prior to the site walk and has not been updated. The trees at the bottom of the hill by the shared driveway will be removed. New plans will be available on Thursday, January 18, 2024, with all the changes.

B. Dion opened the hearing to comments from the public. He advised those present that comments must be kept to three minutes or less. Rick Bombard, 10 Drake Drive: Pointed out on the plan the location of his property. He questioned the difference in wetlands noted on the May 2023 plan and the current plan. P. Libbey stated that the wetland delineation was a concept and before the property was surveyed. R. Bombard asked the criteria for a backlot and how it was granted. He owns property but does not have enough frontage. M. Fougere explained that at least five acres is needed; one backlot is allowed. Frontage is 220 feet and can be as small as 20 feet; a waiver for 50 feet can be requested. J. McDevitt stated that once a lot has been subdivided into a backlot, it can never be subdivided again.

Mike McGuinness, 4 Cushman Way: Asked if a Variance could be rescinded by the Planning Board. S. Gerome commented that the terminology was incorrect: a Variance is not granted through the Planning Board; a Variance is granted from the Zoning Board. S. Gerome explained that a Variance is relief from the Zoning Ordinance. The Planning Board granted waivers from the Subdivision Regulations and Site Plan Review Regulations. M. McGuinness asked if the Planning Board could rescind. M. Fougere stated it was a very complicated question.

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Dave Kayarian, 146 Dearborn Road: Was concerned about the increase in traffic and the intersection of Dearborn Road and Rt. 33. B. Dion commented that the Board had received a traffic study at this meeting but had not read the report. The Board would pay attention to the traffic at that intersection. S. Toth stated that the traffic study indicated 'that this level of traffic increase is expected to have negligible impact to traffic operations along Dearborn Road and Stratham Lane.' He noted that it had not been reviewed by Altus Engineering or verified for accuracy. S. Jerome added that it takes a lot to put in a light. J. McDevitt commented that there is supposed to be a corridor study of Rt. 33.

There was a question from an audience member regarding January 20th being the clock. B. Dion explained that once an application is submitted and accepted as complete by the Planning Board, the Board has limited time as required by State law to make a decision on the application. It is a 65-day clock that expires on January 20th for this application. M. Fougere added that if the Board is not ready to make a decision after the 65 days, the applicant will be asked to extend the time period by the Board. If the applicant does not agree, the Board will need to make a decision; in most cases, the Board will deny the application. 99.9% of time, the applicant agrees to an extension.

There being no further comments, B. Dion closed the public hearing and returned to the Board. M. Fougere noted that the traffic study had been forwarded to Altus Engineering and the Police Chief for review that afternoon. The Board was provided with a copy of the Police Chief's letter: Chief Tucker had concerns with the road coming out on Dearborn Road. It was noted that Chief Tucker would not have had time to review the traffic study. Altus Engineering will have comments available for the meeting on January 18, 2024.

MOTION: S. Smith moved to continue the Subdivision of Land, Conditional Use Permit for 125 Dearborn Road (Map R12, 12: Residential Zone) to the public hearing on Thursday, January 18, 2024. Second – P. Dion; all in favor. MOTION CARRIED

3. Conditional Use Permit

24 Winnicut Road (Map R10, 24: Commercial A Zone)

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.

Chris Rice, TF Moran, addressed the Board. Present were Attorney Monica Keiser, Hoefle, Phoenix, Gormley & Roberts Law Firm, and Brad and Ross Peterson, REP Enterprises. They are requesting a Conditional Use Permit in accordance with Article 18 – Wetlands Protection Ordinance, Section 18.6 – Conditional Uses, Subsection 18.6.1 – Conditional Use Permit, and Subsection of 18.6.2 – Conditions. C. Rice briefly described REP Enterprises. An overhead view of the existing facility and trailer storage area was shown. The trailer storage area is accessed from Rt. 33; there are some deliveries made with large tractor trailers, which creates a safety issue on Rt. 33. They are proposing to construct a new driveway off Winnicut Road, providing access to a signalized intersection. There are approximately two to three tractor trailer deliveries per week.

This project was presented to the Planning Board in July 2023. Additional site survey work has been done since that meeting. They have received comments from NHDOT. C. Rice pointed out the location of the driveway on the original plan, which was located to avoid wetlands impact; there were impacts to

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the wetland buffers. Based on comments from NHDOT, the driveway was moved to the north to maximize the sight distance; there are minor wetlands and buffer impacts which are different than originally presented. They were at the Conservation Commission in November and received a favorable recommendation for those impacts.

Plans have been submitted to Altus Engineering and they have received comments. Comments from Altus Engineering have been addressed. C. Rice stated that most of the comments from Altus Engineering were minor; drainage comments required additional work regarding the water table. They have done a test pit on the property and revised the drainage design based on the result. The drainage design does meet the Town's regulations and reduces the peak runoff and volume. The NHDOT driveway permit has been received.

B. Dion noted that the Board did not receive a copy of the comments from Altus Engineering. M. Fougere spoke to E. Weinrieb. He confirmed that the plan was received and comments were made. E. Weinrieb received an updated plan set to address those comments.

C. Rice stated that retaining walls have been proposed on either side of the driveway. The driveway width was originally proposed as 24 feet; it has been reduced to 21 feet. A letter from the Police Chief was provided to the Board stating that this would address a safety concern on the roadway.

There are two waiver requests that were not part of the original application. There is one to reduce the driveway width to 21 feet; the other is a waiver for the number of trees that may affect the sight distance. D. Moore questioned why they would narrow the driveway if tractor trailers are delivering. C. Rice stated they wanted to keep it at 24 feet in discussions with staff. One of Altus Engineering's comments was that the abutters were concerned if it was 24 feet it would be a commercial heavily used driveway. In an attempt to alleviate some of those concerns, they reduced the width. M. Fougere was not concerned with the volume of traffic based on discussions with the client. The impact to the wetlands should be minimized. He noted that a 24-foot road is the width of a Town road. C. Rice added that based on his calculations, a 21-foot road would allow for a 1 ½ foot clearance between two vehicles. J. McDevitt asked if the owner could control the number and timing of deliveries per week. Brad Peterson, owner, responded that they may have control on the delivery day; delivery time due to traffic was more difficult. M. Fougere noted the property map is incorrect. It went to the Zoning Board years ago and the entire property is zoned Commercial. A certified Wetland Scientist has noted it is as a low functioning, low value wetland area. There will be no effect on the wildlife corridor.

MOTION: J. McDevitt moved to accept the application for 24 Winnicut Road (Map R10, 24: Commercial A Zone) as complete. Second – D. Moore; all in favor. MOTION CARRIED

Attorney Keiser reviewed the criteria of the Conditional Use Permit (copy on file). The zoning district has been the subject of some confusion but has been resolved: it is considered in the Commercial A Zone. This is a significantly large lot; the land in the back has been developed pursuant to a 2012 site plan approval. Entry onto to the property currently is from Rt. 33 and requires crossing traffic if coming from the west. It is problematic and a difficult location. Attorney Keiser described the turning difficulties from Rt. 33. B. Peterson explained that difficulties for someone travelling west on Rt. 33 and trying to turn into the existing entrance, stating that it is getting worse. Attorney Keiser added that trucks are making a left turn in a very unsafe way and crossing a lot in different ownership than the lot being accessed. There is an existing curb cut but it is closer to the residential home.

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Attorney Keiser continued her review of the Conditional Use Permit. There are not many options for the curb cut on Winnicut Road and that is what dictates the wetland impact. There is not an alternative design that does not impact the wetland buffer. The temporary impact areas will be restored. The design and construction of the wetland crossing will utilize best management practices. The crossing is simply a way to provide a safer way to access the property. The wetland does not have much functionality and/or value.

C. Rice noted that a letter and pictures had been submitted to the Board by an abutter. Some of the debris has been removed. Photos of the crossing area were provided to the Board. Attorney Keiser questioned where the pictures from Denise Wheeler, abutter, were taken. D. Wheeler mentioned that there was not much of a buffer; the survey indicates there is a significant buffer between the paved area and her property. Attorney Keiser stated D. Wheeler may have been on the REP property when the pictures were taken. There is a significant buffer between the paved area and her property line. C. Rice added there is approximately 113 feet from the shed to the edge of the gravel; from the shed to the new driveway is approximately 315 feet.

C. Rice stated the drainage flows down to a roadside swale and pointed out the location. The swale is located on Winnicut Road and flows to the brook. M. Fougere stated that there was a question at the last meeting: was the plan built for Board approval ten years ago. TF Moran did an as-built; there were concerns it has gotten bigger from what was approved and if it matches the site plan on file. C. Rice responded that they cleared slightly less than was allowed.

S. Toth commented that at the last meeting an abutter on Cushman Way complained about noise. He asked if any thought had been given to a sound wall or other barrier. Attorney Keiser stated it had not been considered, noting it was a temporary storage area and not utilized often. There are other businesses in the area, and it may be difficult to tell where the noise was coming from. They will discuss it to see if that can be done. S. Toth preferred the new plan with the road going up further and that the abutter's concern with lights shining in his windows had been addressed. C. Rice mentioned that a trap screen in the culvert was included in the new plan.

S. Gerome questioned if the radius going onto the site was fine for a 60-foot to 70-foot tractor trailer making the right-hand turn. B. Peterson stated that everything was at a minimum; they were trying to work with everyone to make it smaller: they could work with 21 feet. S. Gerome stated that his concern was the traffic on Winnicut Road. Someone making the left turn onto Winnicut Road may find a truck waiting to turn into the property; what happens? S. Gerome noted that people drive too fast on that road. B. Peterson responded that was better than trying to turn left in a turn lane on Rt. 33. He added that Winnicut Road was much slower compared to Rt. 33. Attorney Keiser noted the DOT feedback: they did not feel the closer driveway did not have sufficient sight distance. Part of their consideration for moving the driveway on Winnicut Road towards Rt. 33 was the proper sightline. S. Gerome's concern was that they would have to pull up and wait; there would be more of an impact on Winnicut Road, which is not as wide, and people would be queuing up behind the trucks. B. Peterson stated it was a clear entrance; the problem with Rt. 33 was that the drivers would get confused and park in the middle of the road. S. Gerome stated that a 70-foot truck waiting to make a left turn would not be an easy situation. His biggest concern was that the Board needed to make sure there is a limit to the use of the driveway in the future. M. Fougere noted that a change of use had to come to the Planning Board. Attorney Keiser stated the property was in a commercial zone. M. Fougere added that a stipulation by the Board would limit the number of trucks per day. B. Peterson stated they did not do that kind of volume.

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B. Peterson explained how the trucks would enter the property through the new driveway. They would enter on Winnicut Road and pull through the lot; there is a third curb cut on Rt. 33. The driveway on Rt. 33 is an entrance only. The proposed driveway will not be a main entrance; the main entrance is on Rt. 33 but is problematic for trucks. S. Gerome stated it was a good plan but wanted the circulation fixed and limitations set beyond the current owners. D. Moore asked if there could be a stipulation that if there was a change in ownership they would have to come back before the Board. S. Gerome noted that if the use stayed the same, they would not have to come back.

Referring to the picture on the screen, B. Dion mentioned the trailers parked in the middle. He questioned if they would restrict the trailer parking so the incoming trucks could make the right turn to exit the other driveway. B. Peterson stated the picture looks like they were getting ready to turn the gravel. The lot is clear for the turn to be made and what is shown in the picture is not the current trailer grouping. B. Dion questioned if the 290-foot driveway would have enough room for four 70-foot tractor trailers. He was trying to get the perspective of the size of the truck when it made the right-hand turn at the end of the new driveway. He noted there would be room as long as there were no additional trailers parked closer to the curb cut. B. Peterson responded they would have to make it work. The lot was wide open, and they could move a row of trailers.

B. Dion noted they were putting a 12-inch, high density polyethylene pipe under the driveway. C. Rice stated they were using a stronger pipe. B. Dion stated the plan indicated that HDPE would be used; C. Rice thought it may have been revised. B. Dion asked that the plan be updated correctly. Attorney Keiser stated the Board would receive a cover letter noting revisions at the next meeting.

B. Dion opened the public hearing to comments, reminding those present that comments were limited to three minutes or less and must be pertinent to the application.

Mike McGuinness, 4 Cushman: Asked why the existing entrance on Winnicut Road was blocked with plows. B. Peterson responded it was tight through there and there were overhead wires. M. McGuinness continued that when he looked out his back window on Cushman the place was 'mobbed' with trailers and they heard noise. He also mentioned valuations and equity as well as lighting and cameras. B. Peterson responded that they do not have lighting or cameras on the property. Traffic was also a concern and suggested opening the existing driveway on the corner abutting the detailing business.

Jim Belanger, 2 Cushman Way: Did not have too much issue with their plan. His concern was how far the buffer was to his property and screening. B. Peterson pointed out the property line and noted again there would be no lighting. J. Belanger noted there was some noise. His other issue was that the left turn lane onto Winnicut Road from the lights at Rt. 33 could only hold five or six cars; cars would be blocking Rt. 33 waiting to make the turn. It was noted by the Board that there were only three deliveries a week. J. McDevitt and S. Gerome stated the Board was trying to make a bad situation safer. J. McDevitt stated that they purchased a house that abutted a commercial lot.

Joe and Cindy Hoonhout, 31 and 36 Winnicut Road: J. Hoonhout questioned B. Peterson why trucks could not come in east bound. B. Peterson stated it was rerouting traffic tremendously off I-95; they were not going to reroute them up and around. J. Hoonhout stated that he put a 'pin' at the Hampton tolls on a mapping program. It was closer from I-95 to Rt. 101 and Rt. 33 vs. I-95 to Rt. 33. It would eliminate the issue on Winnicut Road if a right-hand turn was made at the entrance next to the detail shop. B. Peterson responded that he could not dictate a route.

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Cindy Hoonhout, 31 and 36 Winnicut Road: Questioned the Commercial A Zoning and the restrictions on its use; does it meet Commercial A Zoning? Attorney Keiser stated that it has been determined that it does. M. Fougere reminded those present that the reason they were at the Planning Board was for a driveway and that they were impacting the buffer. It is an allowable use and has been in that location for many years. C. Hoonhout stated that when the cidery was before the Board, members were careful to make sure that buffers were maintained, kept continuity, worried about traffic, etc., and she was impressed. C. Hoonhout asked how to control the limitations on this property. B. Dion responded there would have to be a significant change to the use of the property, and they would have to come to the Planning Board with a change of use. C. Hoonhout stated much of this was regarding safety and more commercial traffic on Winnicut Road. B. Dion stated that she needed to look at the aggregate; it might be a big enough mediation on Rt. 33 so that a small change on Winnicut Road might be worthwhile in the balance. C. Hoonhout stated it may also be worthwhile to the balance to have the Ordinance dictated to the shippers that they could come down from the Hampton tolls. P. Dion noted it was three to four trucks per week, not a day.

S. Gerome stated that the Board would deal with the traffic issue. They were before the Board to try and alleviate a safety problem. D. Moore noted that the new location has been moved quite a bit away from their residence.

There being further comments from the public, B. Dion closed the public hearing and returned to the Board. M. Fougere summarized that there had been a discussion about possibly stipulating the number of deliveries per week, signage, consider one way onto the property, correcting the pipe type, a plan to keep the end of the parking storage area open allowing trucks to make the swing to the exit as well as Eric's comments. It was noted that Chief Tucker supported the driveway change.

MOTION: J. McDevitt moved to continue the Conditional Use Permit for 24 Winnicut Road (Map R10, 24: Commercial A Zone) to the public hearing on Thursday, January 18, 2024. Second – P. Dion; all in favor. MOTION CARRIED

4. Approval of Minutes

MOTION: B. Dion moved to enter into non-public session to discuss the minutes of November 16, 2023, and reputation at 7:55 pm. Second – P. Dion; all in favor. MOTION CARRIED

The Board returned to public session at 8:19 pm.

MOTION: J. McDevitt moved to seal the minutes of the non-public session. Second – D. Moore; all in favor. MOTION CARRIED

MOTION: B. Dion moved to approve the minutes of Thursday, December 07, 2023, as amended (the November 16, 2023 minutes). Second – S. Smith; six in favor, one abstain (S. Gerome). MOTION CARRIED

5. Consent Agenda

There were no items for the Consent Agenda.

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6. Other Business

M. Fougere received a call from the truck stop. They would like to put in one additional storage tank for biodiesel. There will not be any new pumps, dispensary, or new building; a small shed will be built. There will be no loss of parking. It will be located underground near the other storage areas. S. Gerome explained that it would be a modification of asite plan. Due to the language in the Site Plan Regulations, M. Fougere stated it was a gray area. If they added another dispenser or island, it would need to come before the Board. Ocean Road could be impacted by traffic. S. Smith noted better signage was needed. The consensus of the Board was they should come to the Planning Board. M. Fougere will make the contact.

7. Work Session: Thursday, January 04, 2024

Posting requirements could not be met for the Zoning Ordinance revisions by the Conservation Commission or to add the Housekeeping Clause due to the holidays. There were no agenda items.

MOTION: S. Smith moved to cancel the work session on Thursday, January 04, 2024. Second – S. Gerome; all in favor. MOTION CARRIED

8. Adjournment

MOTION: D. Moore moved to adjourn at 8:26 p.m. Second – S. Smith; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, January 18, 2024 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant