



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD

Thursday, November 17, 2022 – 6:30 p.m. – Town Hall Conference Room

Members Present: Bob Dion, Steve Gerrato, John McDevitt, Catie Medeiros, Phil Dion (Alternate), Richard Winsor (Selectmen's Rep)

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

Staff Present: Mark Fougere

J. McDevitt opened the Planning Board public hearing at 6:30 p.m. He announced a quorum was present and the meeting was being recorded.

MOTION: R. Winsor moved to enter a non-meeting at 6:30 pm. Second – B. Dion; roll call vote: B. Dion – yes, S. Gerrato – yes, J. McDevitt – yes, C. Medeiros – yes, P. Dion – yes, R. Winsor – yes; all in favor. MOTION CARRIED

MOTION: R. Winsor moved to return to public session at 7:45 pm. Second – B. Dion; roll call vote: B. Dion – yes, S. Gerrato – yes, J. McDevitt – yes, C. Medeiros – yes, P. Dion – yes, R. Winsor – yes; all in favor. MOTION CARRIED

1. Projects of Regional Impact

There were no projects of regional impact.

2. Preliminary Conceptual Consultation: 136 Bayside Road (R17, 22)

Owner: Cynthia Armstrong, Trustee

Applicant: Cynthia L. Armstrong Revocable Trust of May 13, 2005

The owner/applicant is proposing to subdivide a house lot of two acres from a 16-acre lot, creating a backlot of 14 acres; a single-family home will be built on the backlot. The existing home will remain on the two-acre lot.

M. Fougere informed the Board that C. Armstrong and her son had met with him several times. Their request was similar to a request at the October meeting to subdivide land. The backlot provision in the Subdivision Regulations requires 250 feet of frontage; this lot has 200 feet of frontage. It is a large lot; they would like to subdivide the lot to create two properties. The backlot would have 50 feet of frontage, the house would have 150 feet of frontage. The backlot would consist of approximately 14 acres. The existing home will remain on the two-acre lot. A waiver will be needed from the Subdivision Regulations.

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Paige Libbey, Jones and Beach Engineers and representing the owner, addressed the Board. Also present was Cynthia Armstrong, owner, and Ross Armstrong, son. C. Armstrong and R. Armstrong explained why they wanted to subdivide the property and create a backlot. R. Armstrong would live in the existing house on two acres; she would build a house for herself on the backlot (14 acres).

P. Libbey described the property as long and narrow. The highlighted area on the plan will be subdivided off. Foss Brook runs along the northern edge; a more detailed plan that included the existing house and the brook was shown. The property is slightly over 16 acres and extends back to the railroad tracks. They are proposing to locate the house near the tree line, which is halfway back.

P. Libbey noted that a waiver will be needed from the 220 feet requirement in the Subdivision Regulations. They were looking for input and if the Board would consider granting a waiver. P. Libbey noted that the applicant could subdivide the lot into five or six lots with a road. The applicant would like to subdivide the lot for herself and her family and stay on the property. P. Libbey added there would be benefits to granting a waiver.

B. Dion noted there was a brook flowing through a portion of the property they plan to use as access to the back. He questioned if there was enough room for them to get over and around the brook without creating bridges. R. Armstrong stated that the map does not show that the brook is approximately 12 feet away in a ravine. There would not be any bridges; from the road back, it is flat. C. Armstrong stated that R. Armstrong will have an easement to use the driveway that has been in place since 1978. P. Libbey pointed out the existing driveway on the plan, noting it would be a shared driveway for the two lots. M. Fougere added that when they reach the point where the driveway breaks, they will be away from the wetlands. The new road to the proposed home will be outside the buffer.

Responding to S. Gerrato's question, P. Libbey stated there was 200 feet of frontage. M. Fougere referred the Board to Section 4.4.1.1 in the Subdivision Regulations regarding a Conditional Use Permit being granted for backlots. J. McDevitt noted that once a backlot was created, the lot could not be subdivided further.

P. Libbey, responding to R. Winsor's question, stated that the total frontage is 200 feet. The proposed backlot would have 50 feet of frontage. The frontage for the adjacent lots is approximately 200 feet. M. Fougere noted that many homes on the south side of Bayside Road do not have 200 feet of frontage; he did not feel it would be inconsistent with the neighborhood. R. Winsor questioned if a precedent was being set for future requests; M. Fougere stated that every request was unique depending on the neighborhood. He added that 5 acres are required; there are 16 acres to this lot. C. Armstrong stated they were aware, and have accepted, that the property cannot be developed further.

C. Medeiros liked that it was low density for 14 acres with two houses. The shared driveway would not affect abutters. C. Armstrong commented that the abutting properties would not be affected. B. Dion questioned the square at the top of the plan; C. Armstrong stated it was a culvert for the railroad. R. Armstrong added it is a granite stone, approximately 5 feet to 6 feet high and 3 feet wide. It goes under the tracks and the river flows through it.

R. Winsor stated he would like to see this work. B. Dion agreed, adding it would be nice if they could do it.

J. McDevitt opened the preliminary consultation to public comment. There being none, he closed public comment and returned to the Board. Responding to a question from R. Armstrong, J. McDevitt stated a

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quorum of the Board must be present. The application process was explained to C. Armstrong and R. Armstrong. S. Gerrato stated that P. Libbey would be doing the site plan and it would be noted on the plan that that property could not be further developed.

3. Subdivision of Land: 529 Portsmouth Avenue (Map U5, 9 – Commercial A Zone)
Owner/Applicant: Granite State Pioneer Group, LLC
The owner/applicant is proposing to convert the existing duplex into a condex.

Jeff Apsey, owner/applicant, addressed the Board. M. Fougere explained that this case was continued because it was advertised incorrectly. When the project was reintroduced to the Board, it was not advertised as a condex but rather a duplex. The applicant wanted the option of a condominium subdivision. M. Fougere noted that nothing has changed. The outstanding issues from Altus Engineering and M. Fougere are minor. A restoration bond of \$17,900 will be needed. An engineer's stamp and wetlands scientist stamp must be added to the plan as well as a signature block. State subdivision approval is needed. A stipulation should be included that the duplex be constructed as presented to the Board.

S. Gerrato questioned the driveway off Cemetery Lane. J. Apsey noted that was changed based on a recommendation from Altus Engineering due to the corner (Cemetery Lane and Portsmouth Avenue). The fence will be removed. The curb cut on Portsmouth Avenue will be landscaped. The driveway on Cemetery Lane has a safer layout. The driveways are large enough for a turnaround so people would not have to back out onto the road. J. Apsey noted that the septic has been approved.

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

MOTION: R. Winsor moved to approve the Subdivision of Land, 529 Portsmouth Avenue (Map U5, 9), according to the Cold Spring Condominium Site Plan submitted by Atlantic Survey Co, LLC, dated October 2022, Project No. 20196, with the following conditions: a restoration bond of \$17,900 is required; a professional engineer's stamp with the final drainage computation and wetlands scientist stamp added to the plan; a signature plan added to the plan; State subdivision approval is required; the duplex will be constructed as presented to the Board. Second – C. Medeiros; all in favor. MOTION CARRIED

AMENDED MOTION: R. Winsor moved to approve the Subdivision of Land, 529 Portsmouth Avenue (Map U5, 9), according to the Cold Spring Condominium Site Plan submitted by Atlantic Survey Co, LLC, dated October 2022, Project No. 20196, with the following conditions: a restoration bond of \$17,900 is required; a professional engineer's stamp with the final drainage computation and wetland scientist stamp added to the plan; a signature block added to the plan; State subdivision approval is required; the duplex will be constructed as presented to the Board. This plan is consistent with the Town's Site Plan Regulations, Subdivision Regulations and Zoning Ordinance. Second – S. Gerrato; all in favor. MOTION CARRIED

M. Fougere explained that the subdivision plan, condominium plans with detail and a mylar will be needed.

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4. Site Plan Review, Boundary Line Adjustment, Voluntary Merger, Conditional Use Permit
Address: Off Tower Place/Maple Drive; Vicinity of Magnolia Lane, Sunnyside Drive (R7, 3 – Zones: Residential, Wetlands Conservation, Aquifer Protection)
Owners: Community Congregational Church (R7, 3), Homewood Farm Realty Trust (R8, 16), Philbrick-Vickery Tower (R8, 17), Elaine Grover (Easement - R7, 61), Margaret Bell (Easement - R7, 61), Linda McGurin (Easement - R7, 57), Rebecca Eastman (Easement – R7, 57)
Applicant: Joseph Falzone
The owners and applicant are proposing an age-restricted development: 47 units, club house, and approximately 3,100 ft. of new road.

The applicant requested a continuance to the meeting on Thursday, December 15, 2022.

MOTION: R. Winsor moved to continue the Site Plan Review for Off Tower Place/Maple Drive to the public hearing on Thursday, December 15, 2022. Second – S. Gerrato; all in favor. MOTION CARRIED

M. Fougere stated that based on earlier discussion with counsel, the recommendation was to continue with the access road as planned as a public way. He will contact the applicant and engineer.

5. Site Plan Review, Conditional Use Permit: 69 Tide Mill Road (Map R17, 65 – Commercial District A)
Owner: River Tweed Properties, LLC
Applicant: Sarah Greenshields, Little Tree Education
The owner and applicant are proposing a mixed-use site to include the existing building as an office with studio apartments above. Also proposed is a 4,226 square foot, two-story school and two 1,200 square foot multi-family buildings.

Paige Libbey, Jones and Beach Engineering and representing the owner, addressed the Board. Also present were Sarah Greenshields, owner of Little Tree Education, and Rebecca Brown, Greenman-Pedersen, Inc. (GPI). P. Libbey updated the Board that additional test pits were done and witnessed by Eric Weinrieb, Altus Engineering. Altus Engineering also issued a new comment letter. There are some remaining issues that need to be addressed as well as new comments resulting from the plan changes. P. Libbey was confident they would have a 'clean' letter from Altus Engineering for the December meeting. M. Fougere explained to the Board that Altus Engineering noted the applicant would need to go to the ZBA for a Variance; that is not the case. The requirement quoted is in the Subdivision Regulations; a waiver will be required. M. Fougere stated that there is a test pit on the site that meets the requirement without a waiver. E. Weinrieb was satisfied with the test pit. Nine test pits were done; seven passed.

R. Brown discussed traffic with the Board. At the November meeting, they proposed converting dedicated left-turn lanes in each direction to a two-way left turn lane. That would allow someone turning left onto Rt. 33 to make a two-stage left turn. Based on Board comments, they provided an island to guide people to make a right turn. The island was pointed out on the plan by R. Brown. The island will still maintain access onto Weeks Avenue, which was a concern of the abutters at the last meeting. The island will be fully mountable. Chief Laurent was not opposed to having an island at that intersection as long as it was mountable for emergency vehicle access and plows (copy of Chief Laurent's letter is on file). They are proposing flush concrete that is textured (scored). If their proposal is acceptable, they will submit it to NHDOT for compliance review.

J. McDevitt questioned if they had discussed their proposal with District 6. R. Brown responded that they have submitted the plan; it has not been reviewed. R. Winsor stated that his expectations would

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be something more substantial. He suggested a raised structure that would be mountable, discouraging a left turn. It should be more robust and significant than scarred pavement. R. Brown stated the alternative to scored concrete would be similar to the truck apron in a roundabout, which would be elevated 2 inches to 3 inches. B. Dion stated he would be a little more aggressive with the height of the truck apron. He wanted it to be uncomfortable for those wanting to take a left turn. R. Brown assured the Board that 3 inches would be uncomfortable for passenger cars.

The parking waiver was continued to the next meeting. P. Libbey noted that they submitted an outline for parking to Altus Engineering; it is shown on the plan. M. Fougere stated it was a good safety provision that it was there. He reviewed that a waiver was needed for parking spaces because some members were concerned about parking. P. Libbey was asked to provide, but not build, additional parking if it was needed. R. Winsor requested that it be added to the plan that no structures were to be built in the location of additional parking spaces. P. Libbey explained that currently there is grading for the pond in that area. The slope would have to be regraded.

R. Winsor questioned the turning radius for fire trucks. P. Libbey stated that truck turning plans have been done and are included. M. Fougere spoke to Chief Cresta; he would like a turnaround. P. Libbey stated they will be able to add a small hammerhead. That will be shown in the next set of plans. Responding to B. Dion, P. Libbey stated that she ran the truck turning plans and a small hammerhead allows enough access for a firetruck.

R. Winsor asked if it was possible, or viable, to add a second entrance. P. Libbey indicated that the road ended and became gravel. S. Greenshields added that there was trail access in that area. R. Winsor also questioned fire suppression. S. Greenshields stated that the architect's communication with the Fire Marshal indicated that fire suppression was not needed. Chief Cresta had asked that the Fire Marshal put it on letterhead. The architect was going to write her view and confirm with the Fire Marshal that based on his opinion it was an accurate interpretation of the current fire code. B. Dion clarified it was the school that was being discussed. R. Winsor and B. Dion noted that it would be a sticking point with them. M. Fougere added that per code, multi-family requires a sprinkler.

J. McDevitt opened the meeting to public comment. There being none, he closed public comment and returned to the Board. B. Dion asked for clarification on the two structures proposed as duplexes; he felt it indicated four units. P. Libbey stated they are not in the same building. M. Fougere clarified that if it was a four-plex, it would require a sprinkler.

M. Fougere asked that water line be addressed. S. Greenshields stated that they are waiting to hear from Portsmouth Water. They may not realize that Dance Innovations is also on the line. As of now, they will bring the line to Rt. 33. S. Greenshields thinks they may continue it under Rt. 33 because Dance Innovations is also on the line. M. Fougere confirmed that Portsmouth Water has agreed to update the water line from the end of Tide Mill all the way down; S. Greenshields stated 'correct', adding that the line is galvanized and out of date and needs to be replaced. P. Libbey stated it was a matter of whether they would continue across to the north side of Rt. 33.

M. Fougere noted that there is a waiver for parking. P. Libbey informed the Board that the Conservation Commission voted to recommend approval of the Conditional Use Permit. M. Fougere added there are two Conditional Use Permits: one for residential use on the property and one for the disturbance in the buffer. The consensus of the Board was to wait until the final approval to discuss the waiver and Conditional Use Permits.

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P. Libbey confirmed they could move forward with the Tide Mill Road island, potentially having Board approval in December contingent upon DOT approval. M. Fougere stated that one of the conditions of approval, if the Board were to approve in December, would be a DOT permit. If they did not get DOT approval, they would need to come back to the Board. The Board was supportive of that condition. S. Greenshields suggested that the Board read Chief Laurent's letter. Chief Laurent has been involved with DOT since the beginning of the project. R. Winsor, while appreciating Chief Laurent's opinion, stated it was entirely up to the Board.

S. Greenshields requested a 65-day extension to Saturday, January 21, 2023; the Planning Board meeting will be Thursday, January 19, 2023.

MOTION: R. Winsor moved to accept the 65-day extension. Second – S. Gerrato; all in favor. MOTION CARRIED

MOTION: R. Winsor moved to continue the Site Plan Review, Conditional Use Permit: 69 Tide Mill Road (Map R17, 65 – Commercial District A) to the public hearing on Thursday, December 15, 2022. Second – S. Gerrato; all in favor. MOTION CARRIED

6. 2023 Zoning Amendment

M. Fougere reviewed the changes to Article XIX: Age Restricted (Senior) Housing Ordinance (copy on file). Responding to S. Gerrato, M. Fougere stated that the major arteries would be State highways, Breakfast Hill Road, Dearborn Road, Bayside Road, Portsmouth Avenue, Newington Road, and Winnicut Road. M. Fougere will forward the Ordinance to the Planning Board Attorney for review before posting.

MOTION: R. Winsor moved to forward Article XIX: Age Restricted (Senior) Housing Ordinance to ballot for the March 2023 Town Meeting. Second – S. Gerrato; all in favor. MOTION CARRIED

7. Approval of Minutes

MOTION: R. Winsor moved to approve the minutes of Thursday, November 03, 2022. Second – S. Gerrato; five in favor, one abstained (C. Medeiros). MOTION CARRIED

8. Consent Agenda

There was not a consent agenda.

9. Other Business

The Board asked M. Fougere to write a proposal for developing a Library impact fee. The building will need to be looked at for extra space, which will determine how much money is potentially recoverable through an impact fee. An impact fee can only be charged when capacity allowing for growth is created. An impact fee cannot be charged for renovating a building. Example: If 30% of a building allows for growth, 30% of the bond is the growth amount that could be used as the basis for the fee. M. Fougere stated there would not be a huge fee for the Library. B. Dion questioned how the portion attributed to growth was determined. M. Fougere will meet with the Library staff: they developed the plan.

Funds from the Planning Board Town Budget will need to be encumbered no later than December 31, 2022.

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MOTION: R. Winsor moved to encumber \$6,500 from the Planning Board Town Budget for the purpose of writing an impact fee schedule. Second – B. Dion; all in favor. MOTION CARRIED

B. Dion noted that S. Gerrato no longer wanted to do the RPC and TAC meetings. S. Gerrato has been to several meetings; B. Dion volunteered to attend the meetings.

10. Topics for Work Session: Thursday, December 01, 2022

MOTION: R. Winsor moved to cancel the work session on Thursday, December 01, 2022. Second – C. Medeiros; all in favor. MOTION CARRIED

11. Adjournment

MOTION: R. Winsor moved to adjourn at 8:00 p.m. Second – C. Medeiros; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, December 15, 2022 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant