

TOWN OF FITZWILLIAM

PLANNING BOARD

Minutes

May 17, 2022

Planning Board Present: Suzanne Gray, Chair; Paul Haynes, Vice Chair; Robin Peard Blais, Secretary; Barbara Young; Ed Goodell; Martin Nolan, Selectmen's Representative.

Planning Board Absent: Tom Rothermel, Alternate.

Staff Present: Lori Nolan, Land Use Coordinator.

Guests Present: Joe Fournier; Josh Joslyn; Carl Hagstrom; Dana Pinney; Isaac Morse; John Anderson; John Hunt (remote); Jason Reimers (remote); Chad Branon; and Kevin Rule.

Chair Suzanne Gray called the meeting to order at 7:00 pm, held roll call, and reviewed the meeting protocol.

Public Hearing (continued)

Case #: 22-01: John Hunt – Conditional Use Permit (WPOD) – Driveway affecting wetlands at Fullam Hill Road. [Map 4, Lot 57 – Rural District]

Gray updated the Planning Board stating that Tom Peragallo, hydrologist, declined the project due to a conflict of interest. The Planning Board then discussed a new hydrologist. Josh Joslyn, agent representing the property owner, stated that all information requested from the State is included on the plan. He confirmed that he submitted the requested information to the State today.

Gray asked the purpose of the driveway. Joslyn stated to provide access to the lot. Gray reviewed all the previously stated purposes. John Hunt, property owner, clarified that when he stated "lot of record", he meant a lot to build a house or a lot to get a house permit. He disagreed that the purpose is part of the parameters for a wetlands permit. He felt he is only required to meet the state regulations. Having a fundamental purpose is not in the ordinance. Gray disagreed and felt a change in use changes the way an application is looked at. The access is narrow and through a wetland. If not being used for residential purposes, then that changes the use in a sensitive area. Hunt confirmed that this project is separate from the dam project. He asked for the case to be decided tonight. If the Planning Board votes no, he will take the Planning Board to court.

Gray reviewed the list of hydrologists. Martin Nolan asked if a driveway is approved for residential use and it evolves into something else, how much control does the Town have. Gray felt that if the project is approved, the Town does not have much recourse.

Paul Haynes motioned to send the Request for Proposal to hydrologists Cindy Balsuis and Matthew Lundsted. Ed Goodell seconded. Motion passed unanimously.

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

Gray asked to add to the RFP if the wetland is part of a larger wetland. Joslyn commented that, in general, the wetlands drain down to the dam. The driveway wetland is isolated, like a bowl. Gray commented that the dam project requires giving information to NHDES, the Town, Conservation Commission, and the fire department. She reminded Hunt of his noticing responsibilities.

Robin Peard Blais motioned to continue the public hearing until June 21, 2022 at 7:00pm. Haynes seconded. Motion passed unanimously.

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

Joslyn was unsure why the additionally requested NHDES information is needed by the Town. Gray felt it was a normal part of case review.

Public Hearing

Case #: 22-03: Laurel Sunset LLC – Conditional Use Permit (WPOD) – To permit construction of a new single family dwelling within 75 feet of a wetland at 452 East Lake Road. [Map 23, Lot 1 – Rural District]

Gray welcomed Carl Hagstrom, agent representing the property owner, and John Anderson, property owner, to the meeting.

Gray motioned that the application is complete. Peard Blais seconded. Motion passed unanimously.

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

The LUC confirmed that abutters and the public were properly notified.

Hagstrom began his presentation stating that the shoreland permit has been approved by the State. Conservation Commission reviewed and approved the proposal the night before. The new house will have a change in roofline to be a shed roof, pitching towards the road. They will install gutters that feed into the subsurface (drywell). There will be a 30 foot tall temporary barrier installed to prevent debris from entering the lake. The trees in the front must be cut down. The Advanced on Site (AoS) septic system will be installed under the parking area. The property will be less impervious than it is now. The Quonset hut will be the first thing removed. Hagstrom also showed the location of the well.

Young asked about the basement. Hagstrom stated that they will raise the grade to create a crawl space. The concrete deck is a separate structure and will remain. Anderson confirmed that the existing block foundation will be filled in. The new house will have a 3-4 foot crawl space but the house will be raised 3-4 feet to accommodate. There will be no sump pump and everything will be above the water table.

Anderson explained he has owned the property for about two years. It has taken this long to get through the State permitting process. The property will continue to have three parking spots. All concrete in the front and sides will be removed. The proposed side walkway to the side door will be pervious and will have gravel underneath. The shed on the water will be removed. The concrete under the Quonset hut will also be removed.

Gray asked about the pre- and post-impervious factor. Hagstrom stated that the State approved the property to be 49.15% impervious. Anderson explained that the State requires the property to be more conforming than the existing conditions. After construction, the property will only have the house and the retaining wall deck.

Goodell asked how the septic system would work if electricity is lost. Hagstrom explained there would be nothing in or out. Anderson commented that an automatic generator will be installed.

Hagstrom explained that all existing natural vegetation will remain. The LUC confirmed that Conservation Commission had no new concerns.

Gray explained that typically cases are sent to the ZBA for a non-conforming structure if there will be a substantial change. The roofline and height will change but it will be the same square footage. The Planning Board felt the new structure will not be a substantial change from the existing structure and a variance is not needed.

Haynes would like a vegetative buffer. Anderson was agreeable to that. Gray reviewed the Conservation Commission's comments. Anderson is happy to plant mature trees, bushes, or vegetation by the Quonset hut. Hagstrom indicated due to the down slope of the retaining wall, there are limited areas for vegetation. Anderson felt that bushes would be planted in the front, but he was open to any suggestions. Nolan asked if grass will be planted over the septic. Hagstrom stated yes, except on the access covers as the system must be inspected yearly.

Peard Blais motioned to approve the application for a Conditional Use Permit for Laurel Sunset LLC (John Anderson) to permit construction of a new single family dwelling within 75 feet of a wetland at 452 East Lake Road (Map 23, Lot 1 – Rural District) with conditions. Haynes seconded.

The Board voted on the required criteria for a Conditional Use Permit.

- a. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- b. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- c. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- d. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- e. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- f. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- g. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0
- h. Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

The Conditional Use Permit was approved with the following condition:

1. Vegetative buffer or ground cover must be planted on the lake side, under the walkway, and wherever feasible.

Preliminary Consultation

South State Acquisitions – Major Subdivision (17-lots) at 125 Bowkerville Road. [Map 18, Lot 1 – Rural District]

Gray welcomed Chad Branon, civil engineer, and Jason Reimers, attorney representing the property owner, to the meeting. Nolan stated that he is a neighbor to the property and also on the Board of Directors for Meadowood Fire Department, a direct abutter. Gray felt that recusal was probably appropriate but Nolan could delegate another Selectman for this case.

Reimers began his presentation stating that the property owner was unable to make the meeting due to a death in the family. This subdivision is on a 140 +/- acre lot. The proposal calls for 17 lots to be created – 1 light industrial/rural lot and 16 rural lots. Reimers said an informal walk occurred with the DPW Director, Fire officials, and the LUC. This proposal will request a waiver for the maximum length of the loop road. Both DPW and Fire preferred a loop road compared to a dead end or cul-de-sac.

Branon stated that this subdivision will involve two properties. There is significant frontage on NH Route 12 North. The two properties in total is just shy of 140 acres. Bowker Pond makes up most of the southern boundary line and there are wetlands throughout the property. This would be a conventional subdivision. There would be minor wetlands impact at the junction of the two wetlands and there is an existing culvert there now. They have kept the road outside of the wetlands buffers. The road will be 1400 feet until the loop begins. They are anticipating this being accepted as a public road. Sixteen residences will be serviced by the loop road. This proposal meets or exceeds the frontage requirements and lot sizes. Each lot will range from 2.76 acres to 17.5 acres and there will be significant buildable areas and privacy on each lot. Electricity will be installed underground. Each lot will have their own private well and septic. Fire indicated that water access is not an issue and the proposal received, in general, favorable feedback from Fire. The one industrial lot will have frontage and access from NH Route 12 North. An Alteration of Terrain permit from the State will be required. They still need to conduct test pits to validate the soil conditions.

Nolan asked if there is an existing residential driveway across the road from the proposed road. Branon stated yes, and there is not a lot of room for flexibility. There are great site lines in this area though. Branon was unsure if this location is near the old foundation. Nolan asked if the road will be near the 3 corner piece on the far south side. Branon stated the proposed road will favor the southwest side to have maximum separation from the jurisdictional wetland. The road will be a 22 foot wide paved travel surface. The existing culvert might need to be upgraded. Branon stated that proposed Lot 13 has an existing camp and they would like to maintain access to that camp.

Gray stated that on August 5, 2008, a two lot subdivision was granted with access from Bowkerville Road. She felt that the only functional frontage available now is off Route 12. They are creating a road frontage to create a subdivision. Branon confirmed there is 100 feet of frontage on Bowkerville Road. The ordinances require 50 feet of frontage for a proposed road. He explained the terrain is favorable and they meet all the regulations. They will consolidate the two properties and then subdivide into conforming lots.

Nolan commented that this property was set up to be a subdivision with access off NH Route 12 through Don Holbrook. Branon stated that they looked at utilizing access off Route 12. There is more road but there is potential to disrupt the industrial lot, which would go against the Master Plan. Ultimately, they felt using Bowkerville Road was a better option.

Nolan had concerns about the abutting property being used for fire training and the quarry located behind the camp. Peard Blais had concerns about the PFAs contamination. Goodell mentioned that neighboring properties have issues from that contamination. Reimers stated he spoke with Mike McClusky from NHDES. The groundwater that contains the PFAs is going in the opposite direction of this property.

Gray was not satisfied with the functional frontage aspect. The number one stated mission of the Master Plan is to maintain the rural character. A subdivision like this is not necessarily complementary to that. She also did not foresee the town accepting a new road. Branon understood small town dynamics and he appreciated the feedback. He felt the plan is in compliance, except for the road loop waiver.

Goodell did not feel that making a left turn out of the subdivision would be conducive to Bowkerville Road or the roads to downtown. He also had concerns about traffic on Rockwood Pond Road as a cut through to Richmond.

Branon did not feel that 16 house lots would significantly increase traffic. But they could conduct a traffic study. He felt the question was if the plan was safe and if the road can handle the traffic.

Young asked about the site walk. Branon explained it was an informal meeting with DPW and Fire for a safety perspective. It was not meant to exclude anyone.

Nolan did not think the proposal would impact the rural character. The need for more affordable housing is mentioned often and there are many benefits being taken into consideration. Gray felt that most of the building in town currently is on existing lots. Other subdivisions created in town had existing functional frontage. In this proposal, the frontage would be created by the new road. Branon felt that the rural character is determined by public roads. In this plan, no homes would be seen from Bowkerville Road or Route 12. It will just be a new road going into a wooded area. Goodell still had concerns about traffic in and out of the area. Branon stated that the level of service will not change at the intersections. Young would like to see a Bowkerville Road/Route 12 intersection traffic study done.

Peard Blais asked if they plan to build houses or sell the undeveloped lots. Reimers was unsure at this time. He added that they would like to do a site walk with the Planning Board once they have a more definitive plan.

Gray thanked Branon and Reimers for their time. They both then left the meeting.

Preliminary Consultation

Kev's Kayak (Kevin Rule) – Site Plan Review – To permit expansion of business to include car sales and/or lodging at 311 NH Route 12 South. [Map 12, Lot 12 – General Industrial District]

Gray welcomed Kevin Rule to the meeting. Rule explained that he would like to sell used cars at a very low scale on the property. There would be no repairs, chemicals, or oils involved. Gray commented that several conditions were put in place for Kev's Kayak – no water, gray water must be handled, and the building can only be used for storage. He was not required to obtain a Conditional Use Permit for the WPOD as the kayak business has no impact on the wetlands. The Site Plan Review was approved for only the kayak business. The land does not allow for a septic so overnight stays were not allowed. The use of kayaks was allowed, but retail sales were prohibited. Rule explained he has owned the property for 10 years. He asked if he can change the zoning to recreation to have some flexibility, like adding tents with porta potties. He needs something to survive. Gray stated that the property is restricted due to the wetlands. The Planning Board is not the Zoning Board, but the Planning Board is very cautious about allowing things near the wetlands.

The Planning Board reviewed the Site Plan Review map from 2005. The property is entirely within the WPOD. Gray stated that camping would be the least impactful, but Rule would need a Site Plan Review and relief from ZBA for wetlands. Haynes detailed what information the Planning Board would need for a Conditional Use Permit.

Dana Pinney asked about many camp sites Rule would estimate he would need to survive. Rule felt maybe a couple of sites for six months.

Gray thanked Rule for his time and advised him to file applications for a Conditional Use Permit and a variance.

Preliminary Consultation

Karl Bausha – Conditional Use Permit (WPOD) – To permit construction of a rear porch within 100 feet of a prime wetland at 45 Pine Road. [Map 35, Lot 27 – Rural District]

No one was present for this appointment.

Minutes Review

Gray motioned to approve the minutes of April 19, 2022 as written. Young seconded. Motion passed.

Yes: 5 [Gray; Haynes; Peard Blais; Young; Goodell]; No: 0; Abstained: 1 [Nolan]

After a brief discussion and several minor edits, **Gray motioned to approve the minutes of May 3, 2022 as amended. Haynes seconded. Motion unanimously.**

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

Announcements/Communications

Gray announced that Nolan Buonomano has resigned from the Planning Board due to his residency change. Tom Rothermel has agreed to serve in Buonomano's place until the next election.

Gray motioned to appoint Tom Rothermel as a Planning Board member until March 2023. Haynes seconded. Motion passed unanimously.

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

With no further items to discuss, **Gray motioned to adjourn. Haynes seconded. Motion passed unanimously.**

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; Nolan]; No: 0; Abstained: 0

The meeting was adjourned at 9:19 pm.

Respectfully Submitted,
Lori Nolan
Land Use Coordinator

Minutes approved as amended on June 7, 2022.