

TOWN OF FITZWILLIAM

PLANNING BOARD

Minutes

September 20, 2022

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

Planning Board Absent:

Staff Present: Lori Nolan, Land Use Coordinator.

Guests Present: Daniel Hackler; Kevin Parker; Josh Joslyn; John Hunt; Charlie Lawrence; Robyn Bates; Steve Filipi.

Gray called the public meeting to order at 7:00pm, held roll call, and reviewed the meeting protocol/ground rules.

Preliminary Consultation

Daniel Hackler – Home Occupation – to permit online firearms transfers at 323 Upper Troy Road. [Map 17, Lot 16 – Rural District]

Martin Nolan stated that he is a neighbor to this property but has no relationship with the applicant. The Planning Board was okay with him proceeding as a voting member.

Gray welcomed Daniel Hackler to the meeting. Hackler stated that he has moved to Upper Troy Road as he is marrying the homeowner. He is seeking an address change to his current license, which he first obtained in 2008. It is a transfer license. He conducts online gun transfers. He does not keep an inventory. He also does not do any gunsmithing. He has done about 25 transactions this year. Hackler explained the ATF licensing process.

Ed Goodell asked if the guns are physically sent to Hackler during the transfer. Hackler stated yes. He is a middleman. He receives the gun from the seller, conducts the required paperwork and background checks, and then sends the gun to the buyer.

Barbara Young asked if Hackler sold ammunition. Hackler stated that he sells nothing. He only conducts transfers. He explained the low volume is due to lack of advertising. His business is through word of mouth.

Gray reviewed the criteria for a home occupation. Hackler stated he is by appointment only and there is nothing visible from the road. He uses a locked metal gun cabinet for storage.

Gray motioned to approve the online firearm transfer business for Daniel Hackler as a home occupation pursuant §127-14:A-2a at 323 Upper Troy Road [Map 17, Lot 16 – Rural District]. Paul Haynes seconded. Motion passed unanimously.

Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0

Public Hearing, continued

Case # 22-10: John Heikkinen – Site Plan Review – to permit a 3-unit multi-family dwelling at 21 East Lake Road. [Map 27, Lot 21 – Residential District]

The applicant was not in attendance for this meeting.

Haynes stated that three Planning Board members visited the property. There was not a quorum so it was not an official site walk. He explained that they walked the property, inside and out. There is an existing driveway and enough parking for six cars. There is a new septic installed with fill. There are wetlands in the back, but they will not be affected. The foundation has been shored up. Gray commented that the owner is clearing out the knotweed. Haynes added that the owner has planned for a patio off the back door as well.

Tom Rothermel had concerns about trash removal and cars getting in and out as it is a tight area. Haynes felt this setup is better than the next door apartment building. The trash bin will be off the back of the parking. Haynes was unsure of erosion control, but it is much flatter than the adjacent property.

Goodell asked if there were any concerns about the shared well. Gray felt there was and this needed to be answered when the applicant is present.

Gray motioned to continue the public hearing for John Heikkinen – Site Plan Review – to permit a 3-unit multi-family dwelling at 21 East Lake Road [Map 27, Lot 21 – Residential District] until October 4 at 7:00pm. Haynes seconded. Motion passed unanimously.

Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0

Review of Minutes

After a brief discussion and one minor edit, **Gray motioned to approve the minutes of August 16, 2022 as amended. Young seconded. Motion passed.**

Yes: 5 [Gray; Peard Blais; Young; Goodell; Rothermel]; No: 0; Abstained: 2 [Haynes; M. Nolan]

After brief discussion and one minor edit, **Haynes motioned to approve the minutes of September 6, 2022 as amended. Goodell seconded. Motion passed.**

Yes: 6 [Gray; Haynes; Peard Blais; Young; Goodell; M. Nolan]; No: 0; Abstained: 1 [Rothermel]

New Business

Stone Pond Dam Removal: Gray announced to the Planning Board that there will be a site walk in regards to the Aquatic Resource Mitigation (ARM) grant on October 6 at 11:30am.

66 Keene Ave: Gray explained that this was referred to the Planning Board by the BoS office. The applicant is seeking a shoreland permit for in-kind replacement of their existing deck. The Conservation Commission had no comment. The Planning Board wanted to ensure that protections are in place for Laurel Lake. They requested that the applicant come before the Planning Board for a preliminary consultation.

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 summarized the case and reviewed the application. She commented that the replicated wetland has been enlarged. Josh Joslyn, agent representing the applicant, stated the replicated wetland will be 2,840 square feet. It is a 1:1.1 ratio. Young asked if all the recommendations from Comprehensive Environmental Incorporated (CEI) were included on the plan. Joslyn confirmed it had.

Goodell mentioned that the Conservation Commission wanted parameters in place for data collection for the wetland replication monitoring. There was a brief discussion. The Planning Board agreed that a condition can be added for data collection and replication monitoring.

Gray discussed the existing access points to the property, including Shuster Drive, Savola Drive, Sunridge Road, and Little Meadow Road. John Hunt, applicant, stated that the access point now is 719 Fullam Hill Road (Shuster Drive). There is also Fire Lane 103, which connects to Savola Drive. Sunridge Road is not Fire Lane 103. Little Meadow Road does not access the property.

Gray reviewed item #4 of the CEI report – wetlands monitoring plan. M. Nolan asked what happens if the targets are not met in two years. Gray stated that the person monitoring the replicated wetland will give recommendations on the next steps. Young asked about invasive species management. When an area is flooded with sunlight, invasive species seem to thrive. She wanted to make sure it is handled properly before it overtakes an area. Gray felt that the person monitoring the replicated wetland would handle this topic.

Gray discussed the recommendations by the Conservation Commission. Young commented that the Conservation Commission wanted baselines before the project started. Joslyn agreed to provide the Planning Board with an as-built plan. Joslyn also stated there are standard wetland monitoring templates readily available. It is a normal item for certified wetland scientists to handle.

Gray asked if the updated plan needs NHDES approval as it has changed since NHDES gave initial approval. Joslyn stated no because the updated plan is stricter than what the State approved.

Gray discussed the proposed use of the access way. Goodell asked what the access way will be used for. Hunt stated it will be a driveway to a house lot. Goodell asked if it will end within the lot. Hunt stated yes. M. Nolan disagreed and felt the access way will not end on the property. Hunt stated it ends at the intersection and connects to Shuster Drive (driveway with red gate). The access to the Castle is Savola Drive, which is not changing. Hunt is attempting to trick Google. He will use this address to direct people to Savola Drive and reduce angst for neighbors on Sunridge Road. Hunt stated the purpose of the access way is a driveway to a house site. He felt 2-

3 cars from the rental property, at most, would use this access way. He stated he needed a legal driveway for a future house. Goodell asked if the two neighbors, plus himself will use the driveway. Hunt stated yes. Goodell asked if anyone else will use the access way. Hunt stated no one will use it other than himself and his wife. Rothermel wanted to limit traffic on this access way. Gray commented that approval could be conditioned that it is used for residential use only. If it is a business, then the applicant will need to return as a change-in-use will require a review of the common driveway. Rothermel still had concerns with the purpose and that this is not to become the main road to the Castle. Young mentioned that neighbors are not happy that Shuster Drive is used. Hunt stated he will be spreading out traffic over several access points. This is for residential use. He envisioned there will never be a complaint for traffic. He stated that when they cleaned up the dam area, they discovered the perfect house site. Gray stated that Fitzwilliam does not have an Airbnb ordinance and this Airbnb (the Castle) is not in Fitzwilliam. However, Fitzwilliam would most likely consider Airbnb's as "Inn, Motel, Hotel". But ultimately, that topic is still up in the air. M. Nolan felt this access way could have a hidden benefit by providing the area with a new cut-through for emergency vehicles.

The Planning Board discussed and voted on the eight mandatory Conditional Use Permit criteria as follows:

- a. The activity is a productive and reasonable use of the land and is in compliance with the purpose of this section. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- b. Design, construction and maintenance methods are established to minimize detrimental impacts to the wetlands and/or associated uplands, and restoration is provided for. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- c. No reasonable alternative exists which would avoid wetlands alteration or lessen the impacts. **Passed**
Yes: 4 [Haynes; Peard Blais; Rothermel; M. Nolan]; No: 3 [Gray; young; Goodell]; Abstained: 0
- d. The use for which approval is sought is not feasible on a portion of the lot which is outside of the WPOD. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- e. The design and construction of the proposed use will, to the extent possible, be consistent with the purpose and intent of this section. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- f. The total area of the altered WPOD does not exceed the lesser of five thousand (5,000) square feet or ten percent (10%) of the WPOD on the property. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- g. Best practices for work adjacent to a wetland are to be followed for construction. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0
- h. The proposed use will not create a hazard to individual or public health, safety or welfare and will not diminish the wetlands values identified in Subsection A. **Passed**
Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0

Gray motioned to add the following conditions to the Conditional Use Permit. Haynes seconded. Motion passed unanimously.

Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0

1. GRAZ Engineering to submit an as-built plan with photos to the Planning Board upon completion of construction;
2. An independent certified wetlands scientist will inspect and monitor the replicated wetland on an annual basis for a minimum of three growing seasons with criteria provided by Comprehensive Environmental Inc.;
3. GRAZ Engineering "Wetland Replication Monitoring Requirements", as received on August 31, 2022, must be followed;
4. The GRAZ Engineering revised plan, dated August 31, 2022, must be followed;
5. The existing road maintenance agreement, dated October 28, 1993, must be reviewed and if updated, the Town of Fitzwilliam is provided a copy.
6. The driveway is only to be used for residential purposes;
7. There is to be no salt used for road maintenance on the driveway;
8. The driveway is not to be paved;

9. If any work is to be done beyond the GRAZ Engineering revised plan dated August 31, 2022, the applicant is required to come before the Planning Board.

Preliminary Consultation, continued

Filipi Contracting LLC – Major Subdivision (4-lots) at 45 Upper Troy Road. [Map 15, Lot 6-12 – Residential and Rural Districts]

Gray welcomed Steve Filipi, applicant, and Charlie Lawrence, agent representing applicant, to the meeting. Filipi stated that the remaining land from Lot 6-12 will continue to use the common drive. He will not be applying for a stream crossing. He further stated that two abutters are interested in some of the backland from Lot 6-12. He will come back for a boundary line adjustment once the subdivision case is resolved.

Gray asked about the old wells on the property. Filipi stated that he has installed flat covers on them. The wells – which are hand dug and about 8-10 feet deep – do not work and are clogged up. They are not connected, except for ditch drainage. However, three abutters still have deeded rights to the wells. The Town rescinded their rights at the time of the previous subdivision. The Planning Board was in favor of rescinding the well rights to have a cleaner subdivision application. Filipi stated that the State has a process for filling in wells, but he cannot do that until the rights to the wells have been rescinded.

Gray showed the aquifer map from the previous subdivision. The property features bedrock aquifers. Filipi commented that it is likely a fractured bedrock and he is unsure if there is even water in there. He described the previously approved, but rescinded, cluster subdivision.

Filipi explained that this application is currently before the ZBA for a variance for frontage relief. If the variance is not approved, he will be seeking a 3-lot subdivision, rather than a 4-lot subdivision. He asked the difference between a minor and major subdivision application. Gray stated that there will be the same review with a 3-lot versus 4-lot subdivision.

Robin Peard Blais asked if a hydrologist has reviewed this application. Gray stated that a hydrologist did study the property during the previous subdivision. The Planning Board will need to review the file again. The report used aerial photos, USGS maps, topography maps, and other maps. Filipi felt it was a “laptop” report.

Old Business

ARPA Funds: Young asked for an update on ARPA funds distribution. M. Nolan stated the information should be on the Town’s website. Young requested that an article be included in the next newsletter.

Night Sky Complaints: Gray asked about the night sky ordinance violations at Turnkey Lumber and AB Tech. M. Nolan stated that letters have been sent by the BoS to Turnkey Lumber and Roy Brothers. The Planning Board requested that AB Tech be looked at as well. Gray asked if there have been any complaints received in regards to noise from Turnkey Lumber. Young requested that a letter be sent to the BoS in regards to noise and light violations.

With no further business to discuss, **Haynes motioned to adjourn the meeting. Rothermel seconded. Motion passed unanimously.**

Yes: 7 [Gray; Haynes; Peard Blais; Young; Goodell; Rothermel; M. Nolan]; No: 0; Abstained: 0

The meeting was adjourned at 9:21 pm.

Respectfully Submitted,
Lori Nolan
Land Use Coordinator