

TOWN OF FITZWILLIAM

PLANNING BOARD

Minutes

January 17, 2023

Planning Board Present: Suzanne Gray, Chair; Paul Haynes, Vice Chair; Robin Peard Blais, Secretary; Barbara Young; Ed Goodell; Tom Rothermel; and Kevin Woolley, Alternate.

Planning Board Absent: Martin Nolan, Selectmen's Representative

Board of Selectmen Present: Brian Doerpholz; and JEF Craig.

Staff Present: Lori Nolan, Land Use Coordinator; and Debbie Favreau, Town Administrator.

Guests Present: Robyn Bates; Karen Viens; Dana Pinney; Steve Filipi; Patricia Pine (remote); Bill Pine (remote); and Mike Piquette.

Chair Suzanne Gray called the public meeting to order at 7:04pm and held roll call.

Public Hearing, continued

Case # 22-11: Filipi Contracting LLC – Minor Subdivision (3-lots) at Upper Troy Road. [Map 15, Lot 6-12 – Residential/ Rural Districts]

Gray welcomed Steve Filipi to the meeting. Gray explained that at the previous meeting, there was discussion about bringing in Chris Covell to review his aquifer plan from 2008 in conjunction with the current proposal. However, he is no longer in business. Gray and the LUC have since reached out to Tom Peragallo and Robert Roseen. Roseen has confirmed he can review the plan. He explained that stormwater runoff from driveways is not an exact science. However, there could be an opportunity to restrict, such as the use of salt. He estimates 10 hours or less of work at \$175/hour. There has not yet been a response from Peragallo.

Filipi explained that he has met with the Road Agent. The Road Agent agreed that adding a 30 foot minimum culvert that is tied into the existing drainage should stop all stormwater runoff from crossing the road by the proposed lower driveway. The Road Agent felt there could be a big benefit. Filipi stated that he has spent a lot of time on the NHDES website researching recommendations for aquifers. Stratified drift aquifers have the most potential for contamination, while bedrock aquifers have the lowest potential. Filipi felt that the aquifer below his property is basically what all of NH is sitting on; bedrock aquifers are not unique. The State only provides general guidelines through Best Management Practices. The biggest areas of contamination come from road salt and underground tanks from gas stations. The use of fertilizer will be minimal considering the project area.

Gray wanted to ensure that runoff does not affect any other properties. Filipi understood runoff but did not understand the concerns for aquifers as this proposal is small and has minimal potential for damage. Tom Rothermel agreed with Filipi in regards to the aquifer. The use of road salt is terrible, especially for road side wells. He commented that most sit on bedrock. As for drainage, there is an existing ditch but not much of one. He felt better ditching and adding swales and culverts can solve the runoff issues. Rothermel wanted to ask the Road Agent about the blocked culvert and if they could build an asphalt berm in front of the Pine's to keep the run-off in the road. Goodell echoed Rothermel's comments. Goodell wanted more information though on the aquifers because one of the zoning purposes is to protect aquifers. Filipi felt it came down to use of Best Management Practices. Barbara Young had concerns based on the aquifer map indicating a non-building area. She had questions if that non-building area is relevant to the current proposal, which is much smaller.

Goodell asked about wetland crossing and how it will need to be addressed through permitting. Filipi commented that culverts are exempt from wetlands permitting, but agreed that any other crossings can be handled through Permit by Notification. Filipi explained that he will install driveways and fix the well house before any construction begins. The paving of the driveway will be the final step.

Bill Pine, abutter, felt the area is a sensitive area. He asked who paid for the previous aquifer plan. Gray explained that the Planning Board hired the expert but the applicant paid for it. Pine explained that he purchased his house in 1987. Water came in every three to four years. After the previous subdivision, he has had to berm his property and water comes in once or twice a year. He had concerns because the current culverts are not maintained and

the driveways were installed without care. He felt that this subdivision will mess with a large aquifer. The weather is changing and it is hard to build a system to handle the current runoff.

Goodell wanted to speak with the Road Agent before committing to hiring an expert. Rothermel agreed with Goodell. Gray explained that an expert, specifically Robert Roseen, could look at prohibited uses (salt), septic system siting, stormwater runoff from driveways, and/or stability from slopes. Filipi requested a local expert and another option. He suggested Paul Grasewicz.

Gray motioned to invite the Road Agent to the next meeting and to contact Tom Peragallo. Paul Haynes seconded. Motion passed unanimously.

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

Rothermel motioned to continue Case # 22-11 – Filipi Contracting LLC – to February 7, 2023 at 7:00pm. Haynes seconded. Motion passed unanimously.

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

Public Meeting

Board of Selectmen: to discuss policy and procedure for enforcement

Gray explained that the Planning Board raised concerns about enforcement and asked the Selectmen to walk through their process. Brian Doerpholz first wanted to hear from the Planning Board members who were thinking of resigning and why so the BoS could understand what the issues are and the background. Rothermel did not feel that was relevant. Gray explained that Martin Nolan expressed that some Planning Board members had concerns and were considering not continuing. She cited the Briggs case as an example. The attorney representing the abutters indicated to the Planning Board that the Selectmen referred the case back to the Planning Board. This is not Planning Board's role. Debbie Favreau explained that the Selectmen determined this was a neighbor dispute and did not refer it to the Planning Board. The attorney only requested an appointment. Gray felt that most of that complaint is not in the Planning Board's purview but runoff is. She also cited noise complaints from Turnkey Lumber and Dark Skies violations. Doerpholz agreed with Favreau about Briggs. JEF Craig stated that all discussions took place where minutes were taken so it would be easy to look back.

Gray asked if letters to property owners are public. Favreau stated yes unless it had to do with anything legal. Gray asked if the Code Enforcement Officer provided a report that is public. Favreau stated yes. Gray explained that the Planning Board asked for reports from Code Enforcement and Fire but never were received. Favreau questioned if they were requested. Doerpholz explained that the Selectmen sent out the Code Enforcement Officer and Road Agent when the first complaint was made. He questioned why the Planning Board needed that information. Young had concerns because there was no information coming from either the Land Use or Selectmen offices. Doerpholz stated that a direct request must be made to the Selectmen's Office.

Gray turned the discussion to Turnkey Lumber. The Planning Board sent a memo to the Selectmen about noise complaints. When Turnkey came in to the Planning Board, the representative had no knowledge of any noise complaints. Gray had concerns because many noise complaints were submitted. Craig explained they received three letters and sent a letter out to Turnkey asking to speak with them. The Selectmen then met with them and discussed several topics including noise, removing ledge, and use of heavy equipment to flatten land. Gray stated that none of the neighbors or the Planning Board knew that an enforcement letter was sent out. Young had concerns because the complaints were received in the summer and the site walk only took place this December. They also had built a building without a permit.

Rothermel asked what the process for follow up is. Doerpholz explained that the Selectmen look into the perceived violation. They then send a letter to the property owner. If no response, then they send a certified letter. If still no action, then it gets turned over to legal counsel for action. However, each step requires a period of time to allow for the owner to respond. It takes time. Gray asked if those letters are added to the property folder. Favreau stated yes, but they are currently behind in filing. Young asked if the Selectmen respond to the people who submit complaints. Favreau stated that the Selectmen felt the issues were resolved and no letters were sent out to complainers.

Rothermel felt it is important to be able to have Code Enforcement available to make inspections during the day. Doerpholz disagreed stating that the Town does not have the right to go onto private property without permission; even the Health Officer needed permission through the court to do a property inspection. Gray recognized the difficulty of doing enforcement as an elected official and felt enforcement could be better served if a staff member handled. Doerpholz stated it is not a full time position and is a hard position to fill due to the knowledge required. It was suggested to look into sharing resources with surrounding towns. Rothermel shared how Jaffrey handles code violations. If there is a blatant violation, the Code Enforcement Officer can take action. If he requires back-

up, the fire chief typically accompanies him. Steve Filipi, member of public, agreed with Rothermel. His experience is that a commercial property can be entered and the owners notified of violations. He felt direct communication is more effective than letters.

Young asked if Avitar can notify the Selectmen of external property changes. Favreau explained that Avitar is no longer offering data verification, except during the re-evaluation process. They will only do “pick-ups” from construction permits. Rothermel asked if data can be changed based off real estate listings as many do renovations.

At 8:39 pm, **Gray motioned to go into non-public session under RSA 91-A:3 II(I). Rothermel seconded. Motion passed unanimously.**

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

At 9:22pm, **Gray motioned to leave non-public session. Young seconded. Motion passed unanimously.**

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

At 9:22pm, **Gray motioned to seal the non-public minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Young seconded. Motion passed unanimously.**

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

NEW BUSINESS

Construction Permit Instructions: The Planning Board reviewed language proposed to be included on the construction permit instructions in regards to building within the WPOD.

Gray motioned to submit a recommendation to the Board of Selectmen for additional language to be included on the construction permit instructions to read:

Construction within the Wetlands Protection Overlay District may require a Conditional Use Permit issued by the Planning Board and/or a variance issued by the Zoning Board of Adjustment. Consult the Land Use Coordinator if you are unsure of whether or not you are required to obtain a Conditional Use Permit and/or variance.

Haynes seconded. Motion passed unanimously.

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

REVIEW OF MINUTES

Rothermel motioned to approve the minutes of January 3, 2023 as written. Haynes seconded. Motion passed unanimously.

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

Gray updated the Planning Board about an informational meeting about a proposed easement at the old ski hill property for the Fitzwilliam Village Water District to explore installation of a new well. This meeting will take place next Monday, January 23 at 7:00pm at the Conservation Commission meeting.

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

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

The meeting was adjourned at 9:31 pm.

Respectfully Submitted,
Lori Nolan
Land Use Coordinator

Minutes approved as amended on February 7, 2023.